



# Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Forty-third Meeting Day

Friday Afternoon

April 8, 2005

The Senate convened at 1:35 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Father James Bonke, Indianapolis Archdiocese, the guest of Senator J. Murray Clark.

The Pledge of Allegiance to the Flag was led by Senator Clark.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser <input checked="" type="checkbox"/>	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 394: present 49; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 59

Senate Concurrent Resolution 59, introduced by Senator Landske:

A CONCURRENT RESOLUTION honoring the commitment of the Calumet Parliamentary Unit to the advancement of parliamentarians.

*Whereas, Effective democracy requires assemblies of the citizens of the community to decide the actions of the community;*

*Whereas, During these assemblies, it is necessary to permit the citizens of the community to express their thoughts concerning actions to be taken by the community;*

*Whereas, After the citizens have expressed their thoughts, it is necessary to have a method of determining the will of the community regarding the action to be taken;*

*Whereas, It is necessary to have rules to govern the discussion and decisions of these assemblies;*

*Whereas, Parliamentary procedure has developed an effective set of rules to permit orderly discussion in assemblies of a large number of citizens and to permit an orderly determination of the will of the assembly;*

*Whereas, The Calumet Parliamentary Unit is a division of the National Association of Parliamentarians affiliated with the Indiana State Association of Parliamentarians; and*

*Whereas, The Calumet Parliamentary Unit meets regularly to study parliamentary procedure and to promote the educational programs of the National Association of Parliamentarians and the Indiana Association of Parliamentarians on a local level: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. The Indiana General Assembly hereby honors the Calumet Parliamentary Unit for its dedication toward the advancement of parliamentarians.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Marjorie Vinzant Weber, President of the Calumet Parliamentary Unit.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Budak.

## MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 564 and that a conference committee be appointed to confer with a like committee

of the House.

CLARK

Motion prevailed.

#### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 607 and that a conference committee be appointed to confer with a like committee of the House.

MEEKS

Motion prevailed.

#### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 459 and that a conference committee be appointed to confer with a like committee of the House.

DILLON

Motion prevailed.

#### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 66 and that a conference committee be appointed to confer with a like committee of the House.

DILLON

Motion prevailed.

#### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 279 and that a conference committee be appointed to confer with a like committee of the House.

GARD

Motion prevailed.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 571:

Conferees: Ford, Chair and Simpson

Advisors: Alting and Hume

GARTON

Date: 4/8/05

Time: 12:27 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the

Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 202:

Conferees: Wyss, Chair and Simpson

Advisors: Meeks and Hume

GARTON

Date: 4/8/05

Time: 12:23 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 217:

Conferees: Server, Chair and Lutz

Advisors: Merritt and Craycraft

GARTON

Date: 4/7/05

Time: 6:34 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 615:

Conferees: Server, Chair and Rogers

GARTON

Date: 4/7/05

Time: 6:27 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 100:

Conferees: Long, Chair and Broden

Advisors: Waltz and Mrvan

GARTON

Date: 4/7/05

Time: 6:32 p.m.

#### MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bill 282 with amendments and the same is herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

## MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 222, 268, 326, 360, and 373 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

## MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 92, 330, 352, and 372 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE PRESIDENT PRO TEMPORE  
OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 8, 2005, signed the following Senate Enrolled Acts: 43, 60, 88, 111, 172, 175, 212, 303, 315, and 513.

ROBERT D. GARTON  
President Pro Tempore

MESSAGE FROM THE PRESIDENT PRO TEMPORE  
OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 8, 2005, signed the following House Enrolled Acts: 1069, 1126, 1219, 1302, 1358, 1432, 1580, and 1594.

ROBERT D. GARTON  
President Pro Tempore

1:47 p.m.

The Chair declared a recess until the fall of the gavel.

## Recess

The Senate reconvened at 3:41 p.m., with the President of the Senate in the Chair.

ENGROSSED HOUSE BILLS  
ON SECOND READING

## Engrossed House Bill 1001

Senator Meeks called up Engrossed House Bill 1001 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 1001-24)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 8, delete line 40.

Page 8, delete line 42.

Page 8, line 48, before "fund. The" insert "**public defense**".

Page 8, line 48, after "from the" insert "**public defense**".

Page 8, line 48, after "fund." insert "**Any balance in the public defense fund is appropriated to the public defender commission.**".

Page 17, between lines 31 and 32, begin a new line block indented and insert:

**"H. COMMUNITY SERVICES****FOR THE GOVERNOR'S OFFICE OF FAITH BASED & COMMUNITY INITIATIVES**

<b>Personal Services</b>	<b>263,974</b>	<b>264,340</b>
<b>Other Operating Expense</b>	<b>76,869</b>	<b>76,869</b> ".

Page 45, line 20, delete: "3,700,000 3,700,000"  
and insert "**3,750,000 3,750,000**".

Page 45, delete lines 22 through 23, begin a new line blocked left and insert:

**"The foregoing appropriations for Clean Water Indiana may be allotted only if there is an appropriation from the cigarette tax for Clean Water Indiana. Augmentation allowed."**

Page 45, line 25, delete "- T BY 2000".

Page 45, delete lines 27 through 28 and insert:

**"Total Operating Expense 1,968,750 1,968,750"**.

Page 45, line 47, delete "COMMUNITY DEVELOPMENT ADMINISTRATION" and insert "**OFFICE OF RURAL AFFAIRS**".

Page 47, delete lines 31 through 36.

Page 47, line 38, delete "D." and insert "**C.**".

Page 48, line 4, delete "E." and insert "**D.**".

Page 57, line 27, delete "Sixty-six percent (66%) of the" and insert "**The federal share of**".

Page 57, line 28, delete "IC 12-15" and insert "**IC 12-15, based on the applicable Federal Medicaid Assistance Percentage (FMAP),**".

Page 57, line 28, after "IC 12-24-14-1," insert "**and the remainder shall be deposited in the general fund.**".

Page 57, delete lines 29 through 30.

Page 58, delete lines 40 through 49.

Page 59, delete lines 1 through 3.

Page 59, delete lines 7 through 22.

Page 59, line 48, delete "three (3)" and insert "**four (4)**".

Page 62, line 7, delete "Sixty-six percent (66%) of the" and insert "**The federal share of**".

Page 62, line 7, delete "above named".

Page 62, line 8, delete "IC 12-15" and insert "**IC 12-15, based on the applicable Federal Medicaid Assistance Percentage (FMAP),**".

Page 62, line 8, after "under" insert "**IC 12-24-14, and the remainder shall be deposited in the general fund.**".

Page 62, delete lines 9 through 10.

Page 62, between lines 44 and 45, begin a new paragraph and insert:

**"YOUTH SERVICE BUREAU**

<b>Total Operating Expense</b>	<b>1,250,000</b>	<b>1,250,000</b>
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**The department of child services shall establish standards for youth service bureaus. Any youth service bureau that is not an agency of a unit of local government or is not**

registered with the Indiana secretary of state as a nonprofit corporation shall not be funded. The department of child services shall fund all youth service bureaus that meet the standards as established June 30, 1983. However, a grant may not be made without approval by the budget agency after review by the budget committee.

#### PROJECT SAFEPLACE

Total Operating Expense 125,000 125,000".

Page 63, between lines 11 and 12, begin a new paragraph and insert:

#### "SOCIAL SERVICES BLOCK GRANT (SSBG)

Total Operating Expense 20,863,880 20,864,042

The funds appropriated above to the social services block grant are allocated in the following manner during the biennium:

#### Division of Disability, Aging, and Rehabilitative Services

1,030,877 1,030,877

#### Division of Family Resources

12,725,150 12,725,150

#### Department of Child Services

5,515,999 5,516,161

#### Department of Health

296,504 296,504

#### Department of Correction

1,295,350 1,295,350".

Page 80, line 37, after "and" insert "a".

Page 80, line 37, after "school" insert "accredited under IC 20-19-2-8".

Page 80, line 46, after "schools" insert "accredited under IC 20-19-2-8".

Page 82, delete lines 44 through 49, begin a new line blocked left and insert:

"If the amount actually required under the pre-1996 account of the teachers' retirement fund for actual benefits for the Post Retirement Pension Increases that are funded on a "pay as you go" basis plus the base benefits under the pre-1996 account of the teachers' retirement fund is:

(1) greater than the above appropriation for a year, after notice to the governor and the budget agency of the deficiency, the above appropriation for the year shall be augmented from the general fund. Any augmentation shall be included in the required pension stabilization calculation under IC 21-6.1-2; or

(2) less than the above appropriation for a year, the excess shall be retained in the general fund.

The portion of the benefit funded by the annuity account and the actuarially funded Post Retirement Pension Increases shall not be part of this calculation."

Page 83, delete lines 1 through 8.

Page 89, line 32, delete "1,332,000" and insert "3,562,500".

Page 89, line 44, delete "512,686,749" and insert "514,917,249".

Page 93, line 13, delete "1,332,000" and insert "3,562,500".

Page 99, delete lines 15 through 48.

Page 100, delete lines 1 through 40.

Page 108, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 54. IC 5-11-1-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. There is established a state board of accounts. The board consists of the state examiner and two (2) deputy examiners as provided in this section. The principal officer of the board is the state examiner, who shall be appointed by the governor and who shall hold office for a term of four (4) years from the date of appointment. **However, the state examiner serves at the pleasure of the governor.** The state examiner must be a certified public accountant with at least seven (7) consecutive years of active experience as a field examiner with the state board of accounts that immediately precedes the appointment as state examiner. The governor shall also appoint two (2) deputy examiners, who must have the same qualifications as the state examiner, be of different political parties, and be subordinate to the state examiner. The deputy examiners shall be appointed for terms of four (4) years. **However, the deputy examiners serve at the pleasure of the governor.** In addition, the state examiner and the deputy examiners are subject to removal by the governor for incompetency or for misconduct of the office, after a hearing upon due notice and upon stated charges in writing. An appeal may be taken by the officer removed **for incompetency or for misconduct** to the circuit or a superior court of Marion County."

Page 110, line 29, delete "IC 21-3-1.7-5)." insert "IC 21-3-1.7-5), but before the reductions in IC 21-3-1.7-5."

Page 119, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 65. IC 6-3.1-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires December 31, ~~2005~~ 2011."

Page 124, delete lines 13 through 48.

Page 125, delete lines 1 through 42.

Page 126, line 1, delete "two hundred fifty thousand dollars (\$250,000)," and insert "five hundred thousand dollars (\$500,000)."

Page 126, line 5, after "(5)" insert "except as provided in subsection (c)."

Page 126, between lines 13 and 14, begin a new paragraph and insert:

"(c) An area agency on aging may determine that an individual is presumptively ineligible for Medicaid and eligible for the program under this chapter and begin to provide services. However, the individual shall apply for the Medicaid program regardless of the presumptive eligibility determination by the area agency on aging. If the individual is later determined to be eligible for Medicaid, the individual is no longer eligible for the program and shall be transferred to the Medicaid program.

(d) An individual who is unable to perform two (2) activities of daily living and who:

(1) does not meet the requirements of subsection (a)(4) through (a)(5);

(2) meets the requirements of subsection (a)(1) through (a)(3); and

(3) has a condition that:

(A) is expected by the individual's treating physician to last not more than six (6) months; and

(B) causes the individual to need assistance;

may receive services under the program for a period, not to exceed six (6) consecutive months, during which the individual

**has the condition and is unable to perform the activities described in subdivision (3)."**

Page 126, line 16, delete "chapter that do not exceed the" and insert "**chapter.**".

Page 126, delete lines 17 through 18.

Page 128, between lines 36 and 37, begin a new line block indented and insert:

**"(24) Chiropractic services under IC 25-10-1 for a recipient who is at least twelve (12) years of age."**

Page 133, line 38, delete ":".

Page 133, line 39, delete "(A)".

Page 133, line 39, reset in roman "appropriate".

Page 133, line 39, delete "possible for a child who is less than nineteen (19) months".

Page 133, delete lines 40 through 41.

Page 133, run in lines 38 through 42.

Page 133, delete lines 46 through 48.

Page 134, line 24, delete "child" and insert "**family**".

Page 134, line 47, delete "The copayment".

Page 134, delete line 48.

Page 135, delete lines 1 through 3.

Page 135, between lines 21 and 22, begin a new paragraph and insert:

**"(f) The budget agency shall annually report to the health finance commission and the budget committee the following information concerning the funding of the program under this chapter:**

**(1) The total amount billed to a federal or state program each state fiscal year for services provided under this chapter, including the following programs:**

**(A) Medicaid.**

**(B) The children's health insurance program.**

**(C) The federal Temporary Assistance to Needy Families (TANF) program (45 CFR 265).**

**(D) Any other state or federal program.**

**(2) The total amount billed each state fiscal year to an insurance company for services provided under this chapter and the total amount reimbursed by the insurance company.**

**(3) The total copayments collected under this chapter each state fiscal year.**

**(4) The total administrative expenditures.**

**The report must be submitted before September 1 for the preceding state fiscal year in an electronic format under IC 5-14-6."**

Page 137, delete lines 17 through 48.

Page 138, delete lines 1 through 2.

Page 144, delete lines 9 through 11.

Page 144, delete lines 18 through 20.

Page 164, line 47, delete "IC 21-3-1.7-8.2" and insert "**STEP ONE of IC 21-3-1.7-8.2(c) for 2005 and STEP ONE of IC 21-3-1.7-8.2(a) for 2006 and 2007**".

Page 165, delete lines 17 through 21, begin a new line block indented and insert:

**"STEP ~~TEN~~ NINE: A school corporation's STEP NINE amount is the following:**

**(A) If the amount the school corporation received under this chapter in the previous calendar year is greater than zero (0),**

**determine the STEP NINE amount is the lesser of:**

**(A) (i) the STEP ~~NINE~~ EIGHT amount; or**

**(B) (ii) the amount the school corporation received under this chapter for the previous calendar year multiplied by one hundred seven and one-half percent (107.5%).**

**(B) If the amount the school corporation received under this chapter in the previous calendar year is not greater than zero (0), the STEP NINE amount is the STEP EIGHT amount."**

Page 166, line 1, after "fund." insert "**The governing body may transfer the amount levied to cover unreimbursed costs of textbooks under subdivision (7) to the textbook rental fund or extracurricular account.**".

Page 166, line 47, after "exceed" insert ",".

Page 166, line 47, strike "the following:" and insert "**for the period beginning July 1, 2005, and ending June 30, 2007:**".

Page 166, line 48, strike "For the period beginning July 1,".

Page 166, line 48, delete "2005,".

Page 166, line 48, strike "and ending June 30,".

Page 166, line 48, delete "2006,".

Page 167, line 3, delete "last".

Page 167, line 4, delete "annual".

Page 167, line 4, delete "distribution." and insert "**distribution for the state fiscal year ending June 30, 2004; multiplied by (2) two (2).**".

Page 167, line 5, strike "(2) For the period beginning July 1,".

Page 167, line 5, delete "2006,".

Page 167, line 5, strike "and ending June 30,".

Page 167, line 5, delete "2007,".

Page 167, line 5, strike "the product of:".

Page 167, strike lines 6 through 7.

Page 167, line 11, delete "has" and insert "**had**".

Page 167, line 11, delete "2006" and insert "**2003**".

Page 180, delete lines 26 through 40, begin a new line triple block indented and insert:

**"(i) The school corporation's STEP ONE amount, if the absolute value of the STEP THREE amount is less than or equal to fifty dollars (\$50).**

**(ii) The sum of the school corporation's STEP TWO amount and the greater of the school corporation's STEP FOUR amount or fifty dollars (\$50), if the school corporation's STEP THREE amount is greater than fifty dollars (\$50).**

**(iii) The difference determined by subtracting the greater of the absolute value of the school corporation's STEP FOUR amount or fifty dollars (\$50) from the school corporation's STEP TWO amount, if the school corporation's STEP THREE amount is less than negative fifty dollars (-\$50)."**

Page 184, line 36, delete "result for the school corporation under section 6.7(c)".

Page 184, line 36, reset in roman "amount;".

Page 184, line 36, delete "of this".

Page 184, delete line 37.

Page 184, line 38, delete "the current year;".

Page 186, delete lines 10 through 39, begin a new paragraph and insert:

"SECTION 181. IC 21-6.1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board shall segregate the fund into the following accounts:

- (1) The pre-1996 account.
- (2) The 1996 account.

(b) The board shall segregate each of the accounts established under subsection (a) into the following subaccounts:

- (1) The annuity savings account.
- (2) The retirement allowance account.

(c) Except as provided in subsection (d), member contributions shall be credited to the annuity savings accounts within the pre-1996 account.

(d) Member contributions made after June 30, 1995, with respect to the following members shall be credited to the annuity savings account within the 1996 account:

- (1) ~~★ An individual who first became a member who was hired of the fund~~ after June 30, 1995. ~~by a school corporation or other institution covered by the fund.~~
- (2) A member who:
  - (A) before July 1, 1995, served in a position covered by the fund; and
  - (B) after June 30, 1995, and before July 1, ~~2001~~, **2005**, was hired by another school corporation or institution covered by the fund or rehired by a prior employer.

- (3) A member described in subdivision (2) who, after June 30, ~~2001~~, **2005**, is hired by another school corporation or institution covered by the fund or rehired by a prior employer.

(e) Member contributions made to the pre-1996 account with respect to a member covered by subsection (d) shall be transferred to the annuity savings account within the 1996 account.

(f) Employer contributions made after June 30, 1995, with respect to members described in subsection (d) shall be credited to the retirement allowance account within the 1996 account. Employer contributions made after June 30, 1995, with respect to all other members shall be credited to the retirement allowance account within the pre-1996 account.

~~(g) Employer contributions, if any (as determined by the board), made to the pre-1996 account with respect to a member covered by subsection (d) shall be transferred to the retirement allowance account within the 1996 account.~~

~~(h)~~ (g) The board shall administer these accounts and subaccounts as specified in IC 5-10.2-2."

Page 194, delete lines 47 through 48.

Page 195, delete lines 1 through 24.

Page 197, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 198. IC 33-33-48-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) **The judges of the Madison superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the superior court.**

**(b) The magistrate continues in office until removed by the judges of the superior court.**

SECTION 199. IC 33-33-62-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Perry County constitutes the seventieth judicial circuit.

(b) The Perry circuit court has a standard small claims and misdemeanor division.

**(c) The judge of the Perry circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.**

SECTION 200. IC 33-33-84-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has ~~four (4)~~ **five (5)** judges who shall hold their office for six (6) years and until their successors have been elected and qualified."

Page 198, delete line 6.

Page 198, delete lines 9 through 10.

Page 199, line 1, delete "(4)(A)." and insert "**4**."

Page 199, delete lines 3 through 14.

Page 201, line 17, delete "Preventative" and insert "**Diagnostic and preventative**".

Page 201, line 18, delete "Fillings." and insert "**Direct restorations**."

**(C) Treatment of lesions.**

**(D) Extractions.**

**(E) Periodontal treatment for pregnant women."**

Page 201, line 19, delete "(C)" and insert "**(F)**".

Page 201, delete lines 35 through 36.

Page 205, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 228. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 12-17-15-17, as amended by this act, the budget agency shall submit a report to the health finance commission established by IC 2-5-23 and the budget committee containing the following information concerning the funding for the infants and toddlers with disabilities program under IC 12-17-15:**

**(1) The total amount billed to a federal or state program in state fiscal year 2004 for services provided under the infants and toddlers with disabilities program, including amounts billed to the following programs:**

**(A) Medicaid.**

**(B) The children's health insurance program.**

**(C) The federal Temporary Assistance to Needy Families (TANF) program (45 CFR 265).**

**(D) Any other state or federal program.**

**(2) The total amount billed in state fiscal year 2004 to an insurance company for services provided under the infants and toddlers with disabilities program and the total amount reimbursed by the insurance company.**

**(3) The total copayments collected for the infants and toddlers with disabilities program in state fiscal year 2004.**

**(4) The total administrative expenditures for state fiscal year 2004.**

The report required under this SECTION must be submitted in an electronic format under IC 5-14-6 before September 1, 2005.

**(b) This SECTION expires January 1, 2006.**

SECTION 229. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "program" refers to the community and home options to institutional care for the elderly and disabled (CHOICE) program established by IC 12-10-10.

(b) The office of the secretary of family and social services shall submit the following information in electronic format under IC 5-14-6 to the legislative services agency not later than July 15, 2005, concerning the program for fiscal year 2005:

- (1) The total number of individuals participating in the program.
- (2) The total expenditures for the program.
- (3) Information concerning each individual participating in the program, including the following:

- (A) The number of activities of daily living (ADL) that an individual is unable to perform.
- (B) The individual's monthly income and any deductions by source.
- (C) The amount of assets reported by the individual, as determined by the division.
- (D) The services provided to the individual.
- (E) The cost of each service provided to the individual.
- (F) The copayment, if any, that the individual is required to pay and the amount paid by the individual.
- (G) Whether the individual participates in a Medicaid waiver or is Medicaid eligible.
- (H) The county and the area agency on aging region in which the individual resides.

(4) The reimbursement rate for services provided under the program for each area agency on aging region in the preceding fiscal year.

(5) The number of individuals on a waiting list for the program and any services being received by the individual from the state while the individual is on the waiting list.

(c) The legislative services agency shall review the information submitted under this SECTION and compile a report determining the compliance of the submitted information with the requirements of this SECTION. The report must be submitted to the health finance commission established by IC 2-5-23 and the budget committee not later than September 1, 2005.

(d) This SECTION expires December 31, 2005.

SECTION 230. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 33-33-84-3, as amended by this act, the Vigo superior court is not expanded to five (5) judges until January 1, 2006.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Vigo superior court by IC 33-33-84-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Vigo superior court added by IC 33-33-84-3, as amended by this act, is the general election in November 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

MEEKS

Motion prevailed.

SENATE MOTION  
(Amendment 1001-15)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 103, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 47. IC 4-31-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. This article does not apply to any of the following:

- (1) Pari-mutuel pull tabs (as defined in IC 4-35-2-7) sold by the state lottery commission on the premises of a permit holder's race track under IC 4-35.
- (2) Money wagered on pari-mutuel pull tabs under IC 4-35.
- (3) Revenues from the sale of pari-mutuel pull tabs under IC 4-35.

SECTION 48. IC 4-31-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this section, "live racing day" means a day on which at least eight (8) live horse races are conducted.

(b) The commission's authority to issue satellite facility licenses is subject to the following conditions:

(1) Except as provided in subsection (c), the commission may issue four (4) satellite facility licenses to each permit holder that:

- (A) conducts at least one hundred twenty (120) live racing days per year at the racetrack designated in the permit holder's permit; and
- (B) meets the other requirements of this chapter and the rules adopted under this chapter.

If a permit holder that operates satellite facilities does not meet the required minimum number of live racing days, the permit holder may not operate the permit holder's satellite facilities during the following year. However, the requirement for one hundred twenty (120) live racing days does not apply if the commission determines that the permit holder is prevented from conducting live horse racing as a result of a natural disaster or other event over which the permit holder has no control. In addition, if the initial racing meeting conducted by a permit holder commences at such a time as to make it impractical to conduct one hundred twenty (120) live racing days during the permit holder's first year of operations, the commission may authorize the permit holder to conduct simulcast wagering during the first year of operations with fewer than one hundred twenty (120) live racing days.

(2) Each proposed satellite facility must be covered by a separate application. The timing for filing an initial application for a satellite facility license shall be established by the rules of the commission.

(3) A satellite facility must:

- (A) have full dining service available;
- (B) have multiple screens to enable each patron to view simulcast races; and
- (C) be designed to seat comfortably a minimum of four hundred (400) persons.

(4) In determining whether a proposed satellite facility should be approved, the commission shall consider the following:

- (A) The purposes and provisions of this chapter.
- (B) The public interest.
- (C) The impact of the proposed satellite facility on live racing.
- (D) The impact of the proposed satellite facility on the local community.
- (E) The potential for job creation.
- (F) The quality of the physical facilities and the services to be provided at the proposed satellite facility.
- (G) Any other factors that the commission considers important or relevant to its decision.

(5) The commission may not issue a license for a satellite facility to be located in a county unless IC 4-31-4 has been satisfied.

**(c) After December 31, 2004, a permit holder may not submit an initial application for a license to operate an additional satellite facility under this chapter. After December 31, 2004, the commission may not issue an initial license for a new satellite facility. A satellite facility license issued before January 1, 2005, may be renewed annually subject to the requirements of this chapter.**

SECTION 49. IC 4-32-15-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. This chapter does not apply to the sale of pari-mutuel pull tabs under IC 4-35.**

SECTION 50. IC 4-33-12-6, AS AMENDED BY P.L.4-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.**

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:

- (A) the city in which the riverboat is docked, if the city:
  - (i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or
  - (ii) is contiguous to the Ohio River and is the largest city in the county; and
- (B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one

dollar (\$1) is in addition to the one dollar (\$1) received under subdivision (1)(B).

(3) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), fifteen cents (\$0.15) of the admissions tax collected by the licensed owner for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(5) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Except as provided in ~~subsection~~ **subsections (k) and (l)**, sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat located in a historic hotel district, the treasurer of state shall quarterly pay the following amounts:

(1) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer



shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(2) Sixteen percent (16%) of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(3) Nine percent (9%) of the admissions tax collected during the quarter shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

(5) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the Indiana economic development corporation to be used by the corporation for the development and implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:

(A) Job creation and retention.

(B) Infrastructure, including water, wastewater, and storm water infrastructure needs.

(C) Housing.

(D) Workforce training.

(E) Health care.

(F) Local planning.

(G) Land use.

(H) Assistance to regional economic development groups.

(I) Other regional development issues as determined by the Indiana economic development corporation.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents (\$0.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent (\$0.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents (\$0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(6) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in ~~subsection~~ **subsections (k) and (l)**, sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) through (c)(2), or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or  
(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30,

2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

- (1) exceed a particular entity's base year revenue; and
- (2) would otherwise be due to the entity under this section; to the property tax replacement fund instead of to the entity.

(I) The maximum amount paid to the Indiana horse racing commission under this section in a state fiscal year ending may not exceed the remainder of:

- (1) the Indiana horse racing commission's base year revenue as determined under subsection (h); minus
- (2) the amount of pari-mutuel pull tab revenues, if any, distributed under IC 4-35-7-3(a)(1) in the state fiscal year.

The treasurer of state shall pay the amount of the admissions taxes equal to the amount of pari-mutuel pull tab revenues subtracted from the Indiana horse racing commission's base year revenue under this subsection to the state general fund instead of to the Indiana horse racing commission."

Page 106, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 52. IC 4-33-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Nothing in this chapter may be construed to limit the powers or responsibilities of:

- (1) the ~~Indiana~~ state lottery commission under IC 4-30 or IC 4-35;
- (2) the Indiana horse racing commission under IC 4-31;
- (3) the department of state revenue under IC 4-32; or
- (4) the Indiana gaming commission under IC 4-33.

(b) The department may not exercise any administrative or regulatory powers with respect to:

- (1) the Indiana lottery under IC 4-30;
- (2) pari-mutuel horse racing under IC 4-31;
- (3) charity gaming under IC 4-32; or
- (4) riverboat casino gambling under IC 4-33; or
- (5) pari-mutuel pull tabs under IC 4-35.

SECTION 53. IC 4-35 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

## ARTICLE 35. PARI-MUTUEL PULL TABS

### Chapter 1. Application

Sec. 1. This article applies only to the sale of pari-mutuel pull tabs by the commission at a racetrack.

Sec. 2. This article does not apply to the sale of pull tabs by:

- (1) the commission under IC 4-30; or
- (2) a qualified organization (as defined in IC 4-32-6-20) under IC 4-32.

### Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adjusted gross receipts" means:

- (1) the total of all cash and property (including checks received by the commission, whether collected or not) received by the commission from pari-mutuel pull tab sales; minus
- (2) the total of:
  - (A) all cash paid out to patrons as winnings for pari-mutuel pull tabs; and

(B) uncollectible pari-mutuel pull tab receivables, not to exceed the lesser of:

- (i) a reasonable provision for uncollectible patron checks received from pari-mutuel pull tab sales; or
- (ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out to patrons as winnings for pari-mutuel pull tabs.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the commission from pari-mutuel pull tab sales.

Sec. 3. "Commission" refers to the state lottery commission established by IC 4-30-3-1.

Sec. 4. "Department" refers to the department of state revenue.

Sec. 5. "Director" refers to the director of the commission.

Sec. 6. "Major procurement" means a procurement for a contract for either of the following:

- (1) Terminals and devices used to dispense pari-mutuel pull tabs.
- (2) Paper pari-mutuel pull tab games.

Sec. 7. "Pari-mutuel pull tab" means a game offered to the public in which a person who purchases a ticket or simulated ticket has the opportunity to share in a prize pool, multiple prize pools, or a shared prize pool consisting of the total amount wagered in the game minus deductions by the commission and other deductions either permitted or required by law.

Sec. 8. "Permit holder" means a person holding a permit issued under IC 4-31-5 to conduct a pari-mutuel horse racing meeting.

Sec. 9. "Racetrack" means the racetrack specified in a permit holder's permit to conduct a pari-mutuel horse racing meeting.

Sec. 10. "Vendor" means a person who provides or proposes to provide goods or services to the commission. The term does not include an employee of the commission, a retailer, or a state agency.

### Chapter 3. General Provisions

Sec. 1. All shipments of pari-mutuel pull tab machines to the commission in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into Indiana.

Sec. 2. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through elected and qualified members of the general assembly, declares that the state is exempt from 15 U.S.C. 1172.

### Chapter 4. Powers and Duties of the Commission

Sec. 1. The commission shall regulate and administer the sale, purchase, and redemption of pari-mutuel pull tabs under this article.

Sec. 2. The commission shall adopt rules under IC 4-22-2, including emergency rules adopted under a procedure identical to the procedure set forth in IC 4-22-2-37.1, to implement this article, including rules that prescribe:

- (1) an approval process for pari-mutuel pull tab games that requires periodic testing of the games and equipment

by an independent entity under the oversight of the commission to ensure the integrity of the games to the public;

(2) a system of internal audit controls;

(3) a method of payment for pari-mutuel pull tab prizes that allows a player to transfer credits from one (1) terminal or device to another;

(4) a method of payment for pari-mutuel pull tab prizes that allows a player to redeem a winning ticket for additional play tickets or credit to permit purchase of additional play tickets; and

(5) any other procedure or requirement necessary for the efficient and economical operation of the pari-mutuel pull tab games and the convenience of the public.

Sec. 3. (a) The commission shall submit written monthly and annual reports to the governor disclosing the total pari-mutuel pull tab revenues, prize disbursements, and other expenses of the commission during the preceding month and year. In the annual report, the commission shall:

(1) describe the organizational structure of the commission;

(2) identify the divisions created by the director; and

(3) summarize the functions performed by each division.

(b) The commission shall submit the annual report to the governor, the president pro tempore of the senate, the speaker of the house of representatives, the director of the budget agency, and, in an electronic format under IC 5-14-6, the executive director of the legislative services agency not later than February 1 of each year.

Sec. 4. The commission shall maintain daily records of pari-mutuel pull tab transactions, including the revenue received, claims for prizes, prizes paid, and other financial transactions of the commission.

Sec. 5. The commission is entitled to own, sell, and lease real and personal property as necessary to carry out its responsibilities under this article.

Sec. 6. The commission may employ division directors and other staff necessary to carry out this article. However, the following restrictions apply to the commission and the director's authority to employ individuals and to the duties of the individuals employed by the commission:

(1) An individual may not be employed by the commission if the individual has been convicted of or entered a plea of guilty or nolo contendere to a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:

(A) the individual has been pardoned or the individual's civil rights have been restored; or

(B) subsequent to the individual's conviction or entry of a plea, the individual engaged in the kind of law abiding behavior and good citizenship that would reflect well upon the integrity of the lottery.

(2) The director, a member, or an employee of the commission having decision making authority may not participate in a decision involving a vendor or retailer with whom the director, member, or employee has a financial interest. An employee may not participate in a decision involving a vendor or retailer with whom the

employee has discussed employment opportunities without the approval of the director or, if the individual is the director or a member of the commission, without the approval of the governor. An employee of the commission shall notify the director of any employment opportunities discussed or, if the individual is the director or a member of the commission, the director or member shall notify the governor. A violation of this subdivision is a Class A infraction.

(3) The director, a member, or an employee of the commission who terminates employment with the commission may not represent a vendor or retailer before the commission regarding a specific matter that the director, member, or employee was involved in while serving as a director or member of or while employed by the commission for one (1) year following the date the director or member left the commission or the date of cessation of employment with the commission. A violation of this subdivision is a Class A infraction.

Sec. 7. The commission shall establish and maintain a personnel program for its employees engaged in the operation of pari-mutuel pull tabs under this article. Employees may not be hired or fired on the basis of political affiliation.

Sec. 8. The commission may charge fees to persons applying for a contract as a vendor. The fees must be reasonably calculated to cover the costs of investigations and other activities related to the processing of the application.

Sec. 9. The commission may enter into contracts for the purchase, lease, or lease-purchase of goods and services necessary for the operation and promotion of pari-mutuel pull tabs, including assistance provided by a governmental agency. The commission may require separate bids or proposals for each of the following supplies or services, if the supplies or services are provided under contract with the commission under this section or under IC 4-35-6:

(1) Management consultation services.

(2) Pari-mutuel pull tab services and supplies.

Sec. 10. (a) This section applies only to contributions made after June 30, 2005.

(b) The definitions set forth in IC 3-5-2 apply to this section.

(c) As used in this section, "candidate" refers only to a candidate for a state office.

(d) As used in this section, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

(e) As used in this section, "contract" refers only to a contract with the commission or the director for any of the following:

(1) A major procurement.

(2) Auditing services to the commission.

(f) As used in this section, "contractor" means a person who has a contract with the commission or the director.

(g) As used in this section, "officer" refers only to either of the following:

- (1) An individual listed as an officer of a corporation in the corporation's most recent annual report.
- (2) An individual who is a successor to an individual described in subdivision (1).

(h) A person is considered to have made a contribution under this section if a contribution is made by any of the following:

- (1) The person.
- (2) An officer of the person.
- (3) A political action committee of the person.

(i) A person may not enter into a contract if the person has made a contribution to a candidate or a committee within the three (3) years preceding the award of the contract.

(j) A contractor, an officer of a contractor, or a political action committee of a contractor may not make a contribution to a candidate or a committee while the contract is in effect and during the three (3) years following the final expiration or termination of the contract.

(k) A person who knowingly or intentionally violates this section commits a Class D felony.

#### Chapter 5. Pari-Mutuel Pull Tab Vendors

Sec. 1. (a) The commission may enter into contracts for the purchase, lease, or lease-purchase of goods or services necessary to carry out this article. The commission may not contract with any person or entity for the total operation and administration of the sale of pari-mutuel pull tabs authorized by this article, but may enter into contracts and make purchases that integrate functions such as game design, supply of goods and services, and advertisement.

(b) In all procurement decisions, the director or the commission, if the commission chooses to make the decision, shall take into account the particularly sensitive nature of the gaming authorized by this article and shall consider the competence, quality of product, experience, and timely performance of the vendors in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the sale of pari-mutuel pull tabs and the objective of raising net revenues for the benefit of the public purposes described in this article.

Sec. 2. The division of security established under IC 4-30 shall investigate the financial responsibility, security, and integrity of a person who submits a bid, proposal, or offer as part of a major procurement. At a minimum, each person must disclose at the time of submitting a bid, proposal, or offer to the commission all of the following items:

(1) A disclosure of the vendor's name and address and the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors, and each stockholder in the corporation, except that in the case of owners of equity securities of a publicly traded corporation only the names and addresses of those known to the corporation to own beneficially at least five percent (5%) in equity securities need be disclosed.

(B) If the vendor is a trust, the trustees and all persons entitled to receive income or benefits from the trust.

(C) If the vendor is an association, the members, officers, and directors.

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.

(2) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of that business for each state or jurisdiction.

(3) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including lottery goods and services, and of the nature of the goods and services involved for each state or jurisdiction.

(4) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked or terminated a gaming license or contract of any kind and of the disposition in each state or jurisdiction. If a gaming license or contract has been revoked or terminated or has not been renewed or a gaming license application or contract bid has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying this failure to receive a license or contract must be disclosed.

(5) A tax clearance statement from the department of state revenue certifying that the vendor is not on the most recent tax warrant list.

(6) A disclosure of the details of a conviction or judgment of a state or federal court of the vendor of a felony or any other criminal offense other than a traffic violation.

(7) A disclosure of the details of a bankruptcy, an insolvency, a reorganization, or any pending litigation of the vendor.

(8) If a vendor subcontracts part of the work to be performed, the vendor shall disclose all the information required by this chapter for the subcontractor as if the subcontractor were a vendor.

(9) Additional disclosures and information the commission determines appropriate for the procurement involved.

Sec. 3. A contract for a major procurement with a vendor that does not comply with the disclosure requirements described in section 2 of this chapter may not be entered into and is not enforceable. A contract with a vendor who does not comply with the requirements for periodically updating the disclosures during the tenure of the contract as specified in the contract may be terminated by the commission. This section shall be construed broadly and liberally to achieve full disclosure of all information necessary to allow for a full and complete evaluation by the commission of the competence, integrity, background, and character of vendors for major procurement.

Sec. 4. A contract for a major procurement with a vendor may not be entered into if the vendor has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:

(1) the vendor has been pardoned or the vendor's civil rights have been restored;

(2) subsequent to the conviction or entry of the plea, the vendor has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or

(3) if the vendor is a firm, an association, a partnership, a trust, a corporation, a limited liability company, or other entity, the vendor has terminated its relationship with the individual whose actions directly contributed to the vendor's conviction or entry of the plea.

Sec. 5. Each vendor in a major procurement must, at the time of executing the contract with the commission, post an appropriate bond or a letter of credit with the commission in an amount equal to the full amount estimated to be paid annually to the vendor under contract. However, the commission may, by a majority vote of all the members of the commission, adopt a resolution expressly permitting the director to decrease the bond or letter of credit requirement for a procurement if the director determines that the decrease will result in a cost savings to the commission while still providing adequate protection against nonperformance. Instead of a bond or letter of credit, a vendor may, to assure the faithful performance of the vendor's obligations, deposit and maintain with the commission securities that are interest bearing or accruing and that, with the exception of those specified in subdivision (1) or (2), are rated in one (1) of the four (4) highest classifications by an established nationally recognized investment rating service. Securities eligible under this section are limited to the following:

- (1) Certificates of deposit issued by solvent banks or savings associations organized and existing under Indiana law or under the laws of the United States and having their principal place of business in Indiana.
- (2) United States bonds and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.
- (3) General obligation bonds and notes of any political subdivision of the state.
- (4) Corporate bonds of a corporation that is not an affiliate or a subsidiary of the depositor.

Securities shall be held in trust and must have at all times a market value at least equal to the full amount estimated to be paid annually to the vendor under the contract.

Sec. 6. Each contract entered into by the commission for a major procurement under this chapter must contain a provision for payment of liquidated damages to the commission for a breach of the major procurement contract by the vendor.

Sec. 7. A contract entered into by the commission under this chapter may not include a provision allowing for warrantless searches.

Sec. 8. Each vendor must be qualified to do business in Indiana and shall file appropriate tax returns as provided by Indiana law. All contracts under this chapter are governed by Indiana law.

Sec. 9. IC 5-22 does not apply to procurement by the commission. The commission shall adopt rules under IC 4-22-2 for procurement. The rules shall be designed to aid the commission in evaluating competing proposals and selecting the proposal that provides the greatest long term benefit to Indiana

with respect to the quality of the product or services, dependability and integrity of the vendor, dependability of the vendor's products or service, the security, competence, and timeliness of the vendor's products or services, and the maximization of gross revenues and net proceeds over the life of the contract.

#### Chapter 6. Conduct of Pari-Mutuel Pull Tab Games

Sec. 1. A pari-mutuel pull tab game must be owned and operated by the commission.

Sec. 2. A pari-mutuel pull tab game must be conducted in the following manner:

- (1) Each set of pari-mutuel pull tabs must have a predetermined:
  - (A) total purchase price; and
  - (B) amount of prizes.
- (2) Randomly ordered pari-mutuel pull tabs may be distributed from an approved location or from a distribution device to:
  - (A) the commission at a permit holder's racetrack; or
  - (B) a terminal or device of the commission at the permit holder's racetrack.
- (3) A pari-mutuel pull tab must be presented to a player in the form of a paper ticket or display on a terminal or device.
- (4) Game results must be initially covered or otherwise concealed from view on the pari-mutuel pull tab ticket, terminal, or device so that the number, letter, symbol, or set of numbers, letters, or symbols cannot be seen until the concealing medium is removed.
- (5) A winner is identified after the display of the game results when a player removes the concealing medium of the pari-mutuel pull tab ticket or display on a terminal or device.
- (6) A winner shall receive the prize or prizes posted or displayed for the game from the permit holder.

Sec. 3. (a) A person less than twenty-one (21) years of age may not purchase a pari-mutuel pull tab.

(b) A person less than twenty-one (21) years of age may not enter the part of a racetrack in which pari-mutuel pull tabs are sold and redeemed unless the person is an employee of the pari-mutuel pull tab operation.

Sec. 4. The sale price of a pari-mutuel pull tab may not exceed ten dollars (\$10).

Sec. 5. The sale, purchase, and redemption of pari-mutuel pull tabs may occur under this article in no location other than a racetrack operated by a permit holder.

Sec. 6. The commission may not install more than two thousand five hundred (2,500) pari-mutuel pull tab terminals or devices on the premises of a permit holder's racetrack.

Sec. 7. A list of prizes for winning pari-mutuel pull tabs must be posted or displayed at a location where the pari-mutuel pull tabs are sold.

Sec. 8. The commission may close a pari-mutuel pull tab game at any time.

Sec. 9. A pari-mutuel pull tab terminal or device may be operated by a player without the assistance of the commission for the sale and redemption of pari-mutuel pull tabs.

Sec. 10. A pari-mutuel pull tab terminal or device may not dispense coins or currency as prizes for winning pari-mutuel pull tabs. Prizes awarded by a terminal or device must be in the form of credits for additional play or certificates redeemable for cash or prizes.

#### Chapter 7. Pari-Mutuel Pull Tab Revenues

Sec. 1. (a) The state shall retain one hundred percent (100%) of the adjusted gross receipts received from the sale of pari-mutuel pull tabs authorized under this article.

(b) The commission shall remit the adjusted gross receipts to the treasurer of state before the close of the business day following the day the pari-mutuel pull tabs are sold.

(c) The commission may make the payment required under this section by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

Sec. 2. (a) The state pull tab wagering fund is established. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The treasurer of state shall deposit the adjusted gross receipts remitted under section 1 of this chapter in the state pull tab wagering fund.

(c) Money in the fund is continuously appropriated:

- (1) to the commission to pay the commission's administrative expenses incurred under this article; and
- (2) for any other purpose of this chapter.

Sec. 3. (a) After funds are appropriated under section 2 of this chapter, the treasurer of state shall distribute each month the adjusted gross receipts deposited in the state pull tab wagering fund in the preceding month as follows:

- (1) Seventeen percent (17%) to promote horse racing for distribution under section 4 of this chapter.
- (2) Twenty percent (20%) to be divided in equal amounts to each racetrack at which the commission sells pari-mutuel pull tabs under this article.
- (3) Sixty percent (60%) shall be retained by the state for deposit in the state general fund.
- (4) Three percent (3%) to be paid in equal amounts to the county treasurer of each county containing a racetrack at which the commission sells pari-mutuel pull tabs under this article.

(b) The money paid under subsection (a)(4) must distributed in the respective counties in the manner set forth in:

- (1) IC 4-35-8-6(1) through IC 4-35-8-6(6); and
- (2) IC 4-35-8-7.

(c) Money deposited in the state general fund under subsection (a)(3) must be used to augment appropriations for state tuition support.

(d) The distributions required under this section must be made before the fifteenth day of each month.

Sec. 4. Subject to subdivision (1)(C), the Indiana horse racing commission shall distribute the money that is paid under section 3(a)(1) of this chapter as follows:

- (1) Seventy percent (70%) for the following purposes:
  - (A) Forty-six percent (46%) for thoroughbred purposes as follows:
    - (i) Ninety-eight and five-tenths percent (98.5%) for thoroughbred purses.
    - (ii) One and two-tenths percent (1.2%) to the

horsemen's association representing thoroughbred owners and trainers.

(iii) Three-tenths of one percent (0.3%) to the horsemen's association representing thoroughbred owners and breeders.

(B) Forty-six percent (46%) for standardbred purposes as follows:

(i) Ninety-eight and five-tenths percent (98.5%) for standardbred purses.

(ii) One and five-tenths percent (1.5%) to the horsemen's association representing standardbred owners and trainers.

(C) Eight percent (8%) for quarterhorse purposes as follows:

(i) Ninety-five percent (95%) for quarterhorse purses.

(ii) Five percent (5%) to the horsemen's association representing quarterhorse owners and trainers.

However, in the first year after the commencement of pari-mutuel pull tab game operations under this article, the money distributed under this clause may not exceed the lesser of two million seven hundred thousand dollars (\$2,700,000) or eight percent (8%) of the money paid under this subdivision. If quarterhorse races average at least seven and five-tenths (7.5) horses per gate in the first year after the commencement of pari-mutuel pull tab game operations or in a subsequent year, the money distributed under this clause for quarterhorse purposes shall be increased by ten percent (10%) in the following year. However, the money distributed under this clause may not exceed eight percent (8%) of the total amount of money distributed under this subdivision. If the amount of money distributed under this clause is less than eight percent (8%) of the total amount of money distributed under this subdivision in a particular year, the amounts distributed under clauses (A) and (B) for that year shall be increased equally in proportional amounts.

(2) Thirty percent (30%) to the breed development funds established under IC 4-31-11-10 in the same proportion that money is distributed for the purposes of each breed under subdivision (1).

#### Chapter 8. Admissions Tax

Sec. 1. A tax is imposed on admissions to a pari-mutuel pull tab facility authorized under this article at a rate of two dollars (\$2) for each person admitted to the pari-mutuel pull tab facility.

Sec. 2. (a) The commission shall remit admissions taxes collected under this chapter to the department. The commission must remit taxes each day for the preceding day's admissions.

(b) The remission of the tax under this section must be on a form prescribed by the department.

(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(d) If the department requires taxes to be paid under this section through electronic funds transfer, the department may allow the commission to file a monthly report to reconcile the

amount of taxes paid to the department.

Sec. 3. The department shall deposit the taxes remitted under this chapter in the local racetrack gaming fund established under section 4 of this chapter.

Sec. 4. (a) The local racetrack gaming fund is established. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The treasurer of state shall establish a separate account within the fund for each county containing a racetrack. Each account consists of the admissions taxes collected by the commission for admissions to the pari-mutuel facility located at the county's racetrack and deposited into the fund under section 3 of this chapter.

(c) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 5. The treasurer of state shall distribute the admissions taxes deposited in the local racetrack gaming fund as follows:

(1) The tax revenue remitted by the commission from a racetrack that is located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000) shall be distributed under section 6 of this chapter.

(2) The tax revenue remitted by the commission from a racetrack that is located in a county having a population of more than forty-three thousand (43,000) but less than forty-five thousand (45,000) shall be distributed under section 7 of this chapter.

Sec. 6. In the case of a racetrack described in section 5(1) of this chapter, the first two hundred thousand dollars (\$200,000) of tax revenue distributed under this section in the first calendar year that pari-mutuel pull tab games are conducted at the racetrack located in the county must be paid to the county treasurer for a one (1) time distribution to a shelter for victims of domestic violence located in the county. The first two hundred fifty thousand dollars (\$250,000) of tax revenue distributed under this section in the second calendar year that pari-mutuel pull tab games are conducted at the racetrack located in the county must be paid to a post secondary educational institution located in the county to support the institution's electrical engineering programs. The first two hundred thousand dollars (\$200,000) of tax revenue distributed in the third calendar year that pari-mutuel pull tab games are conducted at the racetrack located in the county must be paid to the Madison County Community Health Center. The remainder of the tax revenues distributed under this section each year shall be paid as follows:

(1) Twenty-five percent (25%) to the county's economic development council for distribution under section 8 of this chapter.

(2) Twenty-five percent (25%) to a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000).

(3) Twenty percent (20%) to the school corporations located in the county. The tax revenue distributed under this subdivision must be divided among the school corporations on a pro rata basis according to the ratio that the number of county resident students enrolled in

each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county.

(4) Fifteen percent (15%) to the incorporated cities and towns located in the county other than a city described in subdivision (2). The tax revenue distributed under this subdivision must be divided among the cities and towns on a pro rata basis according to the ratio that the population of each city or town bears to the total population of the county minus the population of a city described in subdivision (2).

(5) Fourteen and five-tenths percent (14.5%) to the capital projects fund of the county for distribution by the county legislative body.

(6) Five-tenths of one percent (0.5%) to the county fiscal body for distribution to mental health and addiction service providers located in the county.

Sec. 7. In the case of a racetrack that is described in section 5(2) of this chapter, the tax revenues remitted by the racetrack shall be paid as follows:

(1) Thirty-eight and five-tenths percent (38.5%) to the county.

(2) Thirty-eight and five-tenths percent (38.5%) to a city having a population of more than seventeen thousand nine hundred (17,900) but less than eighteen thousand one hundred (18,100).

(3) Twenty percent (20%) to the school corporations located in the county. The tax revenue distributed under this subdivision must be divided among the school corporations on a pro rata basis according to the ratio that the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county.

(4) Five-tenths of one percent (0.5%) to the county fiscal body for distribution to mental health and addiction service providers located in the county.

(5) Two and five-tenths percent (2.5%) to a town having a population of more than one thousand (1,000) that is located in the county.

Sec. 8. (a) This section applies only to a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(b) The county economic development council is established to allocate admissions taxes received under section 6 of this chapter within the county. Fifty percent (50%) of the taxes received each year must be allocated for operations, capital improvements, and other necessary expenditures of the certified technology park located in the largest city in the county. The council may allocate the remainder of the taxes received under section 6 of this chapter each year for the following purposes:

(1) Economic development projects within the county.

(2) Assisting the Madison County Community Health Center.

(3) Assisting nonprofit organizations located in the county.

If the council determines that the certified technology park located in the largest city in the county no longer needs the amount of money provided under this section, the council may



reallocate the taxes for any purpose permitted by this section.

(c) The council consists of the following members:

- (1) Two (2) elected officials, who must be members of different political parties, representing the county and appointed by the county executive.
- (2) Two (2) elected officials, who must be members of different political parties, representing the largest city in the county and appointed by the mayor of the city.
- (3) One (1) elected official from each city in the county other than the city described in subdivision (2), appointed by the mayor of the city.
- (4) One (1) elected official from each town in the county, appointed by the legislative body of the town.
- (5) The executive dean of Ivy Tech Community College-Anderson or the executive dean's designee.
- (6) The president of Anderson University or the president's designee.

(d) For purposes of this section, "economic development project" means any project that would be considered an economic development project under IC 6-3.5-7-13.1.

Sec. 9. (a) As used in this section, "political subdivision" means a county, township, city, town, separate municipal corporation, special taxing district, or school corporation.

(b) Money paid to a political subdivision under this chapter:

- (1) must be paid to the fiscal officer of the political subdivision and must be deposited in the political subdivision's general fund;
- (2) may not be used to reduce the political subdivision's maximum levy under IC 6-1.1 but may be used at the discretion of the political subdivision to reduce the property tax levy of the political subdivision for a particular year;
- (3) may be used for any purpose specified in this chapter or for any other legal or corporate purpose of the political subdivision, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and
- (4) is considered miscellaneous revenue.

#### Chapter 9. Penalties

Sec. 1. A person who knowingly or intentionally aids, induces, or causes a person who is:

- (1) less than twenty-one (21) years of age; and
- (2) not an employee of a pari-mutuel pull tab operation operated under this article;

to enter or attempt to enter the pari-mutuel pull tab operation commits a Class A misdemeanor.

Sec. 2. A person who:

- (1) is not an employee of a pari-mutuel pull tab operation operated under this article;
- (2) is less than twenty-one (21) years of age; and
- (3) knowingly or intentionally enters the pari-mutuel pull tab operation;

commits a Class A misdemeanor."

Page 197, between lines 46 and 47, begin a new paragraph and insert:

"SECTION 199. IC 35-45-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. This chapter does not apply to the publication or broadcast of an advertisement, a list of prizes, or other information concerning:

- (1) pari-mutuel wagering on horse races or a lottery authorized by the law of any state; or
- (2) a game of chance operated in accordance with IC 4-32; or
- (3) a pari-mutuel pull tab game operated in accordance with IC 4-35.

SECTION 200. IC 35-45-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. This chapter does not apply to the sale of pari-mutuel pull tab tickets authorized by IC 4-35."

Page 205, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 228. [EFFECTIVE JULY 1, 2005] (a) The state lottery commission shall adopt the emergency rules required under IC 4-35-4-2, as added by this act, before January 1, 2006.

(b) This SECTION expires January 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

LANANE

Upon request of Senator Lanane the President ordered the roll of the Senate to be called. Roll Call 395: yeas 16, nays 33.

Motion failed.

#### SENATE MOTION (Amendment 1001-23)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 80, line 16, before "The" insert "Augmentation allowed to the extent of savings resulting from the amendment to IC 6-1.1-20.9-2 and IC 6-1.1-21-2 by this act, which sets a maximum basis for computing the credits, compared to the amount appropriated for property tax replacement credit and homestead credit distributions in this act. The budget agency shall take the steps necessary to allow state distributions required as a result of the increase in the index dollars amounts set forth in IC 21-3-1.7-6.7(a) to be paid from this difference, which would otherwise revert to the state general fund at the end of a state fiscal year or be transferred to a purpose other than the purpose for which it was appropriated."

Page 112, after line 48, begin a new paragraph and insert:

"SECTION 58. IC 6-1.1-20.9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

- (1) the percentage prescribed in subsection (d); multiplied by
- (2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable **during the particular calendar year to the part of the assessed value of the homestead during the particular calendar year; that does not exceed two hundred fifty thousand dollars (\$250,000);** and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 and thereafter	20%

However, the property tax replacement fund board established under IC 6-1.1-21-10, in its sole discretion, may increase the percentage of the credit provided in the schedule for any year, if the board feels that the property tax replacement fund contains enough money for the resulting increased distribution. If the board increases the percentage of the credit provided in the schedule for any year, the percentage of the credit for the immediately following year is the percentage provided in the schedule for that particular year, unless as provided in this subsection the board in its discretion increases the percentage of the credit provided in the schedule for that particular year. However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

- (1) an individual uses the residence as the individual's principal place of residence;
- (2) the residence is located in Indiana;
- (3) the individual has a beneficial interest in the taxpayer;
- (4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and
- (5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 59. IC 6-1.1-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March ~~1~~ **15** of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from: **appeals described in:**

(i) **appeals described in** IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) ~~the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus~~

(iii) **increases allowed under** IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a

cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 for a capital projects fund; plus

(ii) IC 6-1.1-19-10 for a racial balance fund; plus

(iii) IC 20-14-13 for a library capital projects fund; plus

(iv) IC 20-5-17.5-3 for an art association fund; plus

(v) IC 21-2-17 for a special education preschool fund; plus

(vi) IC 21-2-11.6 for a referendum tax levy fund; plus

(vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus

(viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been

available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty percent (60%) of:

(A) the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year; **minus**

**(B) the part of a taxpayer's tax liability described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(2) Twenty percent (20%) of:

**(A) the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) the amount determined under subdivision (1)) imposed in a county on real property for a stated assessment year; minus**

**(B) the part of a taxpayer's tax liability described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(3) Twenty percent (20%) of:

~~(A) the total tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county the amount determined under subdivision (1) on tangible personal property, excluding business personal property, for an assessment year; minus~~

**(B) the part of a taxpayer's tax liability for total county tax levy described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(k) "Business personal property" means tangible personal property (other than real property) that is being:

- (1) held for sale in the ordinary course of a trade or business; or
- (2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty percent (60%) of:

~~(A) a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year; minus~~

**(B) the part of the taxpayer's tax liability described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(2) Twenty percent (20%) of:

~~(A) a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) the amount determined under subdivision (1)) on real property; minus~~

**(B) the part of the taxpayer's tax liability for the total county tax levy described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(3) Twenty percent (20%) of:

~~(A) a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) the amount determined under subdivision (1)) on tangible personal property other than business personal property; minus~~

**(B) the part of the taxpayer's tax liability for the total county tax levy described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds**

**two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund."

Page 176, line 37, delete "nineteen" and insert **"four hundred fifty-five"**.

Page 176, line 37, delete "\$1,019);" and insert **"(\$1,455);"**.

Page 176, line 48, strike "two" and insert **"eight"**.

Page 176, line 48, delete "sixty".

Page 177, line 1, delete "\$1,260);" and insert **"(\$1,800);"**.

Page 177, line 12, strike "four" and insert **"seven"**.

Page 177, line 12, delete "fifty-two" and insert **"seventy-four"**.

Page 177, line 13, delete "\$452);" and insert **"(\$774);"**.

Page 177, line 23, strike "five" and insert **"seven"**.

Page 177, line 23, delete "fifty-seven" and insert **"ninety-five"**.

Page 177, line 24, delete "\$557);" and insert **"(\$795);"**.

Page 177, line 36, strike "three" and insert **"four"**.

Page 177, line 36, delete "forty-seven" and insert **"ninety-five"**.

Page 177, line 37, delete "\$347);" and insert **"(\$495);"**.

Page 185, line 10, delete "seven hundred fifty-four million three" and insert **"eight hundred one million four"**.

Page 185, line 11, delete "(\$3,754,300,000)" and insert **"(\$3,801,400,000)"**.

Page 185, line 12, delete "seven hundred forty-nine million three" and insert **"eight hundred twenty-five million six"**.

Page 185, line 13, delete "(\$3,749,300,000)" and insert **"(\$3,825,600,000)"**.

Page 204, between lines 13 and 14, begin a new paragraph and insert:

**"SECTION 225. [EFFECTIVE JULY 1, 2005] IC 6-1.1-20.9-2 and IC 6-1.1-21-2, both as amended by this act, apply only to property taxes first due and payable after December 31, 2005."**

Page 205, between lines 5 and 6, begin a new paragraph and insert:

**"SECTION 228. [EFFECTIVE JANUARY 1, 2006] (a) If the application of the increase in the index dollar amounts set forth in IC 21-3-1.7-6.7(a) are fully funded from savings resulting from the amendment to IC 6-1.1-20.9-2 and IC 6-1.1-21-2 by this act, the budget agency shall determine for 2006 and for 2007 whether remaining money is available from savings resulting from the amendment to IC 6-1.1-20.9-2 and IC 6-1.1-21-2 by this act, which sets a maximum basis for computing the credits, compared to the amount appropriated for property tax replacement credit and homestead credit distributions in this act.**

**(b) If the budget agency determines that remaining savings are available during 2006 and 2007, each school corporation is entitled to an additional grant to be distributed before June 30, 2006, and before June 30, 2007, in the amount determined under the following formula:**

**STEP ONE: For each school corporation, determine the product of:**

**(A) the school corporation's adjusted ADM (as determined under IC 21-3-1.7-6.6); multiplied by**

**(B) the school corporation's complexity index (as determined under IC 21-3-1.7-6.7(a)).**

**STEP TWO: Determine the sum of the STEP ONE results for all school corporations.**

**STEP THREE: Determine the quotient of:**

**(A) the total amount of money available for additional grants under this SECTION; divided by**

**(B) the STEP TWO sum.**

**STEP FOUR: Determine the product of:**

**(A) the school corporation's STEP ONE result; multiplied by**

**(B) the STEP THREE amount.**

**(c) This SECTION expires January 1, 2008."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

SIMPSON

Motion withdrawn.

SENATE MOTION  
(Amendment 1001-20)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 121, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 67. IC 8-22-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) As used in this section, "base assessed value" means:

(1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 of this chapter, **notwithstanding the date of the final action taken under section 6 of this chapter;** plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) Except in a county described in section 1(5) of this chapter, a resolution adopted under section 5 of this chapter and confirmed under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

(c) The allocation provision must:

(1) apply to the entire airport development zone; and

(2) require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).

(d) Except in a county described in section 1(5) of this chapter, and as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(1) the assessed value of the tangible property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

(e) Except in a county described in section 1(5) of this chapter, all of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development zone and, when collected, paid into special funds as follows:

(1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.

(2) ~~Except as provided in subsection (f), all remaining The~~ **commission may determine that a portion of tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds of the airport authority for a qualified airport development project, or to the payment of leases for a qualified airport development project, or to the payment of principal and interest on bonds issued by an eligible entity to pay for qualified airport development projects in the airport development zone or serving the airport development zone.**

(3) ~~Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1) and (2) shall be allocated to a project fund and dedicated to the reimbursement of expenditures made by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.~~

(f) Except in a county described in section 1(5) of this chapter, if the tax proceeds allocated to the ~~debt service project fund in~~ **subsection (e)(3) exceed the amount necessary to**

~~(1) pay principal and interest on airport authority revenue bonds;~~

~~(2) pay lease rentals on leases of a qualified airport development project; or~~

~~(3) create, maintain, or restore a reserve for airport authority revenue bonds or for lease rentals or leases of a qualified airport development project;~~

**satisfy amounts required under subsection (e), the excess in the project fund over that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).**

(g) Except in a county described in section 1(5) of this chapter, when money in the debt service fund **and in the project fund** is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the airport authority for the financing of qualified airport development projects, ~~and all lease rentals payable on leases of qualified airport development projects, and all costs and expenditures associated with all qualified airport development projects,~~ **money in the debt service fund and in the project fund in excess of that amount those amounts shall be paid to the respective taxing units in the manner prescribed by subsection (d).**

(h) Except in a county described in section 1(5) of this chapter, property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection (e)(2).

(i) Except in a county described in section 1(5) of this chapter, and notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.

(j) Except in a county described in section 1(5) of this chapter, and notwithstanding any other law, the assessed value of all taxable tangible property in the airport development zone, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the tangible property as valued without regard to this section; or
- (2) the base assessed value."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

ROGERS

Motion prevailed.

SENATE MOTION  
(Amendment 1001-22)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 121, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 67. IC 8-14-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and shall credit this account monthly with forty-five percent (45%) of the money deposited in the highway, road and street fund.

(b) The auditor of state shall distribute to units of local government money from this account each month.

(c) The auditor of state shall allocate to each county the money in this account **based on the basis of** the ratio of each county's passenger car **and pickup truck** registrations to the total passenger car **and pickup truck** registrations of the state. **For purposes of this allocation, a pickup truck is a truck that is registered under IC 9-18-2-8 as a truck with a declared gross weight of not more than eleven thousand (11,000) pounds.** The auditor of state shall further determine the suballocation between the county and the cities within the county as follows:

- (1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.
- (2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and

eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For the purposes of allocating funds as provided in this section, towns which become incorporated as a town between the effective dates of decennial censuses shall be eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

(d) Each month the auditor of state shall inform the department of the amounts allocated to each unit of local government from the local road and street account."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

HUME

Motion failed.

SENATE MOTION  
(Amendment 1001-19)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 80, line 16, before "The" insert **"Augmentation allowed to the extent of savings resulting from the amendment to IC 6-1.1-20.9-2 and IC 6-1.1-21-2 by this act, which sets a maximum basis for computing the credits, compared to the amount appropriated for property tax replacement credit and homestead credit distributions in this act. The budget agency shall take the steps necessary to allow state distributions required as a result of the application of STEP SEVEN (C) of IC 21-3-1.7-6.7(c) to be paid from this difference, which would otherwise revert to the state general fund at the end of a state fiscal year or be transferred to a purpose other than the purpose for which it was appropriated."**

Page 112, after line 48, begin a new paragraph and insert:

"SECTION 58. IC 6-1.1-20.9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

- (1) the percentage prescribed in subsection (d); multiplied by
- (2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable **during the particular calendar year** to the **part of the assessed value of the homestead during the particular calendar year; that does not exceed two hundred fifty thousand dollars (\$250,000);** and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 and thereafter	20%

However, the property tax replacement fund board established under IC 6-1.1-21-10, in its sole discretion, may increase the percentage of the credit provided in the schedule for any year, if the board feels that the property tax replacement fund contains enough money for the resulting increased distribution. If the board increases the percentage of the credit provided in the schedule for any year, the percentage of the credit for the immediately following year is the percentage provided in the schedule for that particular year, unless as provided in this subsection the board in its discretion increases the percentage of the credit provided in the schedule for that particular year. However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

- (1) an individual uses the residence as the individual's principal place of residence;
- (2) the residence is located in Indiana;
- (3) the individual has a beneficial interest in the taxpayer;
- (4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and
- (5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 59. IC 6-1.1-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special

assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March + 15 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from: **appeals described in:**

(i) **appeals described in** IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) ~~the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus~~

(iii) **increases allowed under** IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6

- (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
- (ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
- (G) the amount of property taxes imposed in the county for the stated assessment year under:
- (i) IC 21-2-15 for a capital projects fund; plus
  - (ii) IC 6-1.1-19-10 for a racial balance fund; plus
  - (iii) IC 20-14-13 for a library capital projects fund; plus
  - (iv) IC 20-5-17.5-3 for an art association fund; plus
  - (v) IC 21-2-17 for a special education preschool fund; plus
  - (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
  - (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
  - (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus
- (H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus
- (I) for each township in the county, the lesser of:
- (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or
  - (ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus
- (J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus
- (K) for each county, the sum of:
- (i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and
  - (ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus
- (2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus
- (3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus
- (4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus
- (5) the difference between:
- (A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus
  - (B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).
- (h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.
- (i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.
- (j) "Eligible property tax replacement amount" is equal to the sum of the following:
- (1) Sixty percent (60%) of:
    - (A) the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year; **minus**
    - (B) **the part of a taxpayer's tax liability described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**
  - (2) Twenty percent (20%) of:
    - (A) ~~the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy)~~ **the amount determined under subdivision (1))** imposed in a county on real property for a stated assessment year; **minus**
    - (B) **the part of a taxpayer's tax liability described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**
  - (3) Twenty percent (20%) of:



(A) ~~sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy~~ **the amount determined under subdivision (1) on tangible personal property, excluding business personal property, for an assessment year; minus**  
 (B) **the part of a taxpayer's tax liability for total county tax levy described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(k) "Business personal property" means tangible personal property (other than real property) that is being:

- (1) held for sale in the ordinary course of a trade or business; or
- (2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

- (1) Sixty percent (60%) of:

(A) a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year; **minus**

(B) **the part of a taxpayer's tax liability described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

- (2) Twenty percent (20%) of:

(A) a taxpayer's tax liability for a stated assessment year for a total county tax levy ~~(less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy)~~ **the amount determined under subdivision (1)) on real property; minus**

(B) **the part of a taxpayer's tax liability for total county tax levy described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

- (3) Twenty percent (20%) of:

(A) a taxpayer's tax liability for a stated assessment year for a total county tax levy ~~sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy~~ **the amount determined under subdivision (1)) on tangible personal property other than business personal property; minus**

(B) **the part of a taxpayer's tax liability for total county tax levy described in clause (A) that is attributable to the taxes imposed on the part of the assessed value of each taxpayer's property that exceeds two hundred fifty thousand dollars (\$250,000) on a particular tax bill.**

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund."

Page 180, line 44, delete "greater" and insert "**greatest**".

Page 181, between lines 2 and 3, begin a new line block double indented and insert:

**"(C) The product of:**

**(i) the school corporation's previous year revenue; multiplied by**

**(ii) one and one-hundredth (1.01)."**

Page 185, line 10, delete "seven hundred fifty-four million three" and insert "**eight hundred one million four**".

Page 185, line 11, delete "(\$3,754,300,000)" and insert "**(\$3,801,400,000)**".

Page 185, line 12, delete "seven hundred forty-nine million three" and insert "**eight hundred twenty-five million six**".

Page 185, line 13, delete "(\$3,749,300,000)" and insert "**(\$3,825,600,000)**".

Page 204, between lines 13 and 14, begin a new paragraph and insert:

**"SECTION 225. [EFFECTIVE JULY 1, 2005] IC 6-1.1-20.9-2 and IC 6-1.1-21-2, both as amended by this act, apply only to property taxes first due and payable after December 31, 2005."**

Page 205, between lines 5 and 6, begin a new paragraph and insert:

**"SECTION 228. [EFFECTIVE JANUARY 1, 2006] (a) If the application of STEP SEVEN (C) of IC 21-3-1.7-6.7(c) is fully funded, the budget agency shall determine for 2006 and for 2007 whether remaining money is available from savings resulting from the amendment to IC 6-1.1-20.9-2 and IC 6-1.1-21-2 by this act, which sets a maximum basis for computing the credits, compared to the amount appropriated for property tax replacement credit and homestead credit distributions in this act.**

**(b) If the budget agency determines that remaining savings are available during 2006 and 2007, each school corporation is entitled to an additional grant to be distributed before June 30, 2006, and before June 30, 2007, in the amount determined under the following formula:**

**STEP ONE: For each school corporation, determine the product of:**

**(A) the school corporation's adjusted ADM (as determined under IC 21-3-1.7-6.6); multiplied by**

**(B) the school corporation's complexity index (as determined under IC 21-3-1.7-6.7(a)).**

**STEP TWO: Determine the sum of the STEP ONE results for all school corporations.**

**STEP THREE: Determine the quotient of:**

**(A) the total amount of money available for additional grants under this SECTION; divided by**

**(B) the STEP TWO sum.**

**STEP FOUR: Determine the product of:**

**(A) the school corporation's STEP ONE result; multiplied by**

**(B) the STEP THREE amount.**

**(c) This SECTION expires January 1, 2008."**

ReNUMBER all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

SIMPSON

Upon request of Senator Simpson the President ordered the roll of the Senate to be called. Roll Call 396: yeas 16, nays 32.

Motion failed.

SENATE MOTION  
(Amendment 1001-12)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 112, after line 48, begin a new paragraph and insert:

"SECTION 58. IC 6-1.1-20.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 20.6. Local Homestead Credits**

**Sec. 1. As used in this chapter, "revenue" includes revenue received by a political subdivision under any law or from any person.**

**Sec. 2. (a) A political subdivision may adopt an ordinance each year to provide for the use of revenue for the purpose of providing a homestead credit the following year to homesteads eligible for the state homestead credit under IC 6-1.1-20.9. An ordinance must be adopted under this section before December 31 for credits to be provided in the following year. The ordinance applies only to the immediately following year.**

**(b) A homestead credit under this chapter is to be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.**

**(c) A homestead credit under this chapter does not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.**

**Sec. 3. An ordinance adopted under this chapter must provide for a homestead credit that is either a uniform:**

- (1) percentage of the net property taxes due on the homestead after the application of all other deductions and credits; or**
- (2) dollar amount applicable to each homestead.**

**The ordinance must specify the percentage or the dollar amount.**

**Sec. 4. (a) If an ordinance is adopted under this chapter, the county auditor shall, for the calendar year in which a homestead credit is authorized under this chapter, retain from the property tax distributions to the political subdivision the amount necessary so that no other civil taxing unit or school corporation in the county suffers a net revenue loss because of the allowance of the homestead credit.**

**(b) The county auditor shall then distribute the revenue used to offset the homestead credit to the political subdivision. This amount of revenue shall be allocated by the political subdivision as if the money were from property tax collections."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

MRVAN

Motion prevailed.

SENATE MOTION  
(Amendment 1001-18)

Madam President: I move that Engrossed House Bill 1001 be amended to read as follows:

Page 189, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 184. IC 22-14-2-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.5. (a) The state fire marshal shall categorize salaries of investigators in the arson division of the office within each rank based upon the rank held and the number of years of service in the office through the tenth year. The salary ranges that the state fire marshal assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:**

- (1) the base salary in the rank paid to a person with less than one (1) year of service in the office; and**
- (2) the highest salary in the rank paid to a person with at least ten (10) years of service in the office.**

**(b) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.**

**(c) The salaries for investigators in the arson division of the office must be equal initially to the salaries of police employees of the state police department under IC 10-11-2-13, based upon years of service in the office and rank held.**

**(d) The requirement of subsection (c) does not affect:**

- (1) any rights or liabilities accrued; or**
- (2) any proceedings begun;**

**on or before June 30, 2005. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior civil law and procedure as if the requirement of subsection (c) had not been enacted."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1001 as printed April 1, 2005.)

SIMPSON

Motion failed. The bill was ordered engrossed.

**Engrossed House Bill 1083**

Senator Alting called up Engrossed House Bill 1083 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 1083-4)

Madam President: I move that Engrossed House Bill 1083 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 17.

Page 18, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 1. IC 6-3.1-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. This chapter expires December 31, 2005-2011.**

**SECTION 2. IC 6-3.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If on January 1 of a calendar year the county option income tax rate in effect for resident county taxpayers equals six tenths of one percent**

(0.6%), then the county income tax council of that county may after January 1 and before April 1 of that year pass an ordinance to increase its tax rate for resident county taxpayers. **Except as provided in section 9.6 of this chapter**, if a county income tax council passes an ordinance under this section, its county option income tax rate for resident county taxpayers increases by one tenth of one percent (0.1%) each succeeding July 1 until its rate reaches a maximum of one percent (1%).

(b) The auditor of the county shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 3. IC 6-3.5-6-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. Notwithstanding any other provision of this chapter, the county income tax council for a county containing a consolidated city may pass an ordinance to increase the county option income tax rate for resident county taxpayers by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%).**

SECTION 4. IC 6-3.5-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The county income tax council of any county may adopt an ordinance to permanently freeze the county option income tax rates at the rate in effect for its county on January 1 of a year.

(b) To freeze the county option income tax rates a county income tax council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Income Tax Council permanently freezes the county option income tax rates at the rate in effect on January 1 of the current year."

(c) An ordinance adopted under the authority of this section remains in effect until rescinded. The county income tax council may rescind such an ordinance after January 1 but before April 1 of any calendar year. Such an ordinance shall take effect July 1 of that same calendar year.

(d) **Except as provided in section 9.6 of this chapter**, if a county income tax council rescinds an ordinance as adopted under this section the county option income tax rate shall automatically increase by one-tenth of one percent (0.01%) until:

- (1) the tax rate is again frozen under another ordinance adopted under this section; or
- (2) the tax rate equals six tenths of one percent (0.6%) (if the frozen tax rate equaled an amount less than six tenths of one percent (0.6%)) or one percent (1%) (if the frozen tax rate equaled an amount in excess of six tenths of one percent (0.6%)).

(e) The county auditor shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 5. IC 6-3.5-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county

during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

- (1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and
- (2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), and (e). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

- (1) initially imposed a county option income tax; or
- (2) increases the county option income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(g) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the

civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(h) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments."

Page 18, delete lines 26 through 42.

Delete pages 19 through 36.

Page 37, delete lines 1 through 13, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 6-3.5-6, if the county income tax council for a county containing a consolidated city passes an ordinance described in IC 6-3.5-6-9.6, as added by this act, before June 1, 2005, the increased rate takes effect July 1, 2005.**

(b) **An ordinance or a resolution adopted to increase the rate of the county option income tax for resident county taxpayers under IC 6-3.5-6-9.6, as added by this act, by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%), is valid and effective, regardless of whether the ordinance or resolution is passed before, on, or after the effective date of this act."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1083 as printed April 6, 2005.)

CLARK

Motion prevailed. The bill was ordered engrossed.

#### Engrossed House Bill 1097

Senator Ford called up Engrossed House Bill 1097 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1097-1)

Madam President: I move that Engrossed House Bill 1097 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-6.1-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.6. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

- (1) The board.
- (2) An urban enterprise association.
- (3) The department of state revenue.
- (4) The department of commerce.
- (5) The department of local government finance.
- (6) A county auditor.
- (7) **A controller for a consolidated city.**
- ~~(7)~~ (8) A township assessor.

(b) A person listed in subsection (a) may request a second person described in subsection (a) to provide any records or other information maintained by the second person that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person to whom the request is made under this section must comply with the request. A person receiving records or information under this section that are confidential must also keep the records

or information confidential.

(c) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor."

Page 5, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 7. IC 36-1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. "Fiscal officer" means:

- (1) auditor, for a county **not having a consolidated city**;
- (2) controller, for a:
  - (A) consolidated city;
  - (B) **county having a consolidated city**; or
  - (C) second class city;
- (3) clerk-treasurer, for a third class city;
- (4) clerk-treasurer, for a town; or
- (5) trustee, for a township.

SECTION 8. IC 36-2-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. This chapter applies to all counties **except a county having a consolidated city.**

SECTION 9. IC 36-2-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. ~~(a) This section does not apply to a county having a consolidated city.~~

~~(b)~~ (a) The auditor shall perform the duties of clerk of the county executive under IC 36-2-2-11.

~~(c)~~ (b) If the auditor cannot perform the duties of clerk during a meeting of the county executive, and ~~he~~ **the auditor** does not have a deputy or ~~his~~ **the auditor's** deputy cannot attend the meeting, the executive may deputize a person to perform those duties during the meeting.

SECTION 10. IC 36-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. ~~(a) This section does not apply to a county having a consolidated city.~~

~~(b)~~ The auditor shall perform the duties of clerk of the county fiscal body under IC 36-2-3-6(b).

SECTION 11. IC 36-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

#### **Chapter 9.5. County Auditor of Marion County**

**Sec. 1. This chapter applies to a county having a consolidated city.**

**Sec. 2. (a) The county auditor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The auditor forfeits office if the auditor ceases to be a resident of the county.**

**(b) The term of office of the county auditor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.**

**Sec. 3. The county auditor shall keep an office in a building provided at the county seat by the county executive. The auditor shall keep the office open for business during regular business hours on every day of the year except:**

- (1) Sundays;
- (2) legal holidays; and
- (3) **days specified by the county executive according to the custom and practice of the county.**

**Sec. 4. A legal action required to be taken in the county auditor's office on a day when the auditor's office is closed under section 3 of this chapter may be taken on the next day the office is open.**

**Sec. 5. The county auditor shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which the auditor receives a specific fee.**

**Sec. 6. The county auditor may administer the following:**

- (1) An oath necessary in the performance of the auditor's duties.**
- (2) The oath of office to an officer who receives the officer's certificate of appointment or election from the auditor.**
- (3) An oath relating to the duty of an officer who receives the officer's certificate of appointment or election from the auditor.**
- (4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).**

SECTION 12. IC 36-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) The board of commissioners of the county is composed of the county treasurer, the county auditor, and the county assessor. These officers shall serve ex officio as commissioners without additional compensation for performing the duties of the board.

(b) The board of commissioners:

- (1) shall make the appointments required by statute to be made by the board of commissioners of a county;
- ~~(2) shall perform the duties and exercise the powers prescribed by statutes pertaining to the issuance and payment of bonds of the county and the expenditure of the unexpended proceeds of those bonds; and~~
- ~~(3)~~ **(2)** may exercise the powers granted it by Article 9, Section 3 of the Constitution of the State of Indiana and by IC 12-30-3.

SECTION 13. IC 36-3-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) if subject to veto, either approved by the executive or passed over ~~his the executive's~~ veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

- ~~(1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.~~
- ~~(2)~~ **(1)** An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.
- ~~(3)~~ **(2)** A resolution making an appointment that the legislative body is authorized to make.
- ~~(4)~~ **(3)** A resolution selecting officers or employees of the legislative body.
- ~~(5)~~ **(4)** A resolution prescribing rules for the internal

management of the legislative body.

~~(6)~~ **(5)** A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under subsection (d); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

SECTION 14. IC 36-3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) The executive shall, subject to the approval of the city-county legislative body, appoint each of ~~his the executive's~~ deputies and the director of each department of the consolidated city. A deputy or director is appointed for a term of one (1) year and until ~~his a~~ successor is appointed and qualified, but serves at the pleasure of the executive.

(b) When making an appointment under subsection (a), the executive shall submit the name of an appointee to an office to the legislative body for its approval as follows:

- (1) When the office has an incumbent, not more than forty-five (45) days before the expiration of the incumbent's one (1) year term.
- (2) When the office has been vacated, not more than forty-five (45) days after the vacancy occurs.

(c) The executive may appoint an acting deputy or acting director whenever the incumbent is incapacitated or the office has been vacated. An acting deputy or acting director has all the powers of the office.

(d) The executive shall appoint:

- (1) a controller;**
- (2) two (2) deputy controllers, only one (1) of whom may be from the same political party as the executive; and**
- (3) a corporation counsel;**

each of whom serves at the pleasure of the executive.

(e) The corporation counsel and every attorney who is a city employee working for the corporation counsel must be a resident of the county and admitted to the practice of law in Indiana.

SECTION 15. IC 36-3-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.5. (a) The controller appointed under section 2 of this chapter is:

- (1) the fiscal officer of:
  - (A) the consolidated city; ~~but~~ and
  - (B) the county; and
- (2) the director of the office of finance and management under section 2.7 of this chapter.

(b) The county treasurer ~~shall serve~~ serves ex officio as the treasurer of the consolidated city.

SECTION 16. IC 36-3-5-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.6. The:

- (1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

- (A) the consolidated city; and
- (B) the county; and

- (2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's or the deputy controller's duty.

SECTION 17. IC 36-3-5-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.7. (a) Except as provided in subsection (c), the office of finance and management is established and is responsible for:

- (1) accounting and budgeting;
- (2) financial reporting and audits;
- (3) revenue and tax distributions;
- (4) purchasing;
- (5) fixed assets;
- (6) payroll, accounts payable, and accounts receivable; and
- (7) maintenance of property records;

for all city and county departments, offices, and agencies.

(b) The controller:

- (1) serves as the director of; and
- (2) may organize into divisions;

the office of finance and management.

(c) The county auditor shall:

- (1) prepare the budgets for:
  - (A) the circuit and superior courts in the county; and
  - (B) the prosecuting attorney of the county; and
- (2) present the budgets to the city-county legislative body under IC 36-3-6-6.

SECTION 18. IC 36-3-5-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.8. (a) Except as provided in subsections (b) and (c), the controller:

- (1) has all the powers; and
- (2) performs all the duties;

of the county auditor under law.

(b) The controller:

- (1) does not have the powers; and
- (2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a

member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

- (1) the controller;
- (2) the county assessor;
- (3) the county auditor; or
- (4) other appropriate city or county officials.

SECTION 19. IC 36-3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

- (1) Department of administration and equal opportunity.
- (2) Department of metropolitan development.
- (3) Department of public safety.
- (4) Department of public works.
- (5) Department of transportation.
- (6) Department of parks and recreation.

These departments and their divisions have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.

SECTION 20. IC 36-3-5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. The controller shall furnish standard forms for use in the:

- (1) transaction of business; and
- (2) performance of services for which the consolidated city or county receives a specific fee.

SECTION 21. IC 36-3-5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. The controller, in the name of the state and on behalf of any fund of the county or consolidated city, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.

SECTION 22. IC 36-3-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. The controller shall:

- (1) immediately file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance;
- (2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and
- (3) immediately transmit one (1) copy of the report to the state board of accounts.

SECTION 23. IC 36-3-5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. The controller shall keep an accurate account current with the county treasurer. When a receipt given by the treasurer for money paid into the

county treasury is deposited with the controller, the controller shall:

- (1) file the treasurer's receipt;
- (2) charge the treasurer with the amount of the treasurer's receipt; and
- (3) issue the controller's own receipt to the person presenting the treasurer's receipt.

SECTION 24. IC 36-3-5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13. (a) The controller shall:

- (1) keep a separate account for each item of appropriation made by the legislative body of the consolidated city; and
- (2) in each warrant the controller draws on the county treasury, indicate the item of appropriation the warrant is drawn against.

(b) The controller may not permit an item of appropriation to be:

- (1) overdrawn; or
- (2) drawn on for a purpose other than the specific purpose for which the appropriation was made.

(c) A controller who knowingly violates this section commits a Class A misdemeanor.

SECTION 25. IC 36-3-5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) This section does not apply to:

- (1) funds received from the state or the federal government for:

- (A) township assistance;
- (B) unemployment relief; or
- (C) old age pensions; or

- (2) other funds available under:

- (A) the federal Social Security Act; or
- (B) another federal statute providing for civil and public works projects.

(b) Except for money that by statute is due and payable from the county treasury to:

- (1) the state; or
- (2) a township or municipality in the county;

money may be paid from the county treasury only upon a warrant drawn by the controller.

(c) A warrant may be drawn on the county treasury only if:

- (1) the legislative body of the consolidated city made an appropriation of the money for the calendar year in which the warrant is drawn; and
- (2) the appropriation is not exhausted.

(d) Notwithstanding subsection (c), an appropriation by the legislative body is not necessary to authorize the drawing of a warrant on and payment from a county treasury for:

- (1) money that:
  - (A) belongs to the state; and
  - (B) is required by statute to be paid into the state treasury;
- (2) money that belongs to a school fund, whether principal or interest;
- (3) money that:

(A) belongs to a township or municipality in the county; and

(B) is required by statute to be paid to the township or municipality;

(4) money that:

(A) is due a person;

(B) is paid into the county treasury under an assessment on persons or property of the county in territory less than that of the whole county; and

(C) is paid for construction, maintenance, or purchase of a public improvement;

(5) money that is due a person and is paid into the county treasury to redeem property from a tax sale or other forced sale;

(6) money that is due a person and is paid to the county under law as a tender or payment to the person;

(7) taxes erroneously paid;

(8) money paid to a cemetery board under IC 23-14-65-22;

(9) money distributed under IC 23-14-70-3; or

(10) payments under a statute that expressly provides for payments from the county treasury without appropriation by the legislative body.

(e) A controller who knowingly violates this section commits a Class A misdemeanor.

SECTION 26. IC 36-3-5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) The controller shall examine and settle all accounts and demands that are:

(1) chargeable against the county; and

(2) not otherwise provided for by statute.

(b) The controller shall issue warrants on the county treasury for:

(1) sums of money settled and allowed by the controller;

(2) sums of money settled and allowed by another official; or

(3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the controller shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

SECTION 27. IC 36-3-5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 16. Whenever:

(1) a judgment or order is issued by a court in a case in which the county is:

(A) a party; and

(B) served with process for the payment of a claim;

(2) a certified copy of the judgment or order is filed with the controller; and

(3) the claim is allowed by the legislative body of the consolidated city;

the controller shall issue a warrant for the claim.

SECTION 28. IC 36-3-5-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 17. (a) At the semiannual settlement meeting under IC 6-1.1-27, the controller shall issue calls for the redemption of outstanding county warrants if there is money available in the county treasury for redemption of

those warrants.

(b) A warrant included in a call under this section ceases to bear interest on the date of the call. The county treasurer shall redeem warrants included in the call when the warrants are presented to the county treasurer.

(c) A controller who violates this section is liable for the interest on money used for redemption.

SECTION 29. IC 36-3-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 18. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the controller in an amount equal to the penalties and interest.**

**(b) The county treasurer may not reimburse the controller under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.**

SECTION 30. IC 36-3-5-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 19. (a) Before the controller makes the endorsement required by IC 36-2-11-14, the controller may require that a tax identification number identifying the affected real property be placed on an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or a lien on real property. The tax identification number may be established by the controller with the approval of the state board of accounts. If the tax identification number is affixed to the instrument or a tax identification number is not required, the controller shall make the proper endorsement on demand.**

**(b) On request, the controller shall provide assistance in obtaining the proper tax identification number for instruments subject to this section.**

**(c) The tax administration number established by this section is for use in administering statutes concerning taxation of real property and is not competent evidence of the location or size of the real property affected by the instrument.**

**(d) The legislative body of the consolidated city may adopt an ordinance authorizing the controller to collect a fee in an amount that does not exceed five dollars (\$5) for each:**

**(1) deed; or**

**(2) legal description of each parcel contained in the deed; for which the controller makes a real property endorsement. This fee is in addition to any other fee provided by law. The controller shall place revenue received under this subsection in a dedicated fund for use in maintaining plat books.**

SECTION 31. IC 36-3-5-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20. The controller shall:**

**(1) maintain an electronic data file of the information contained on the tax duplicate for all:**

**(A) parcels; and**

**(B) personal property returns;**

**for each township in the county as of each assessment date;**

**(2) maintain the file in the form required by:**

**(A) the legislative services agency; and**

**(B) the department of local government finance; and**  
**(3) transmit the data in the file with respect to the assessment date of each year before March 1 of the next year to:**

**(A) the legislative services agency in an electronic format under IC 5-14-6; and**

**(B) the department of local government finance.**

SECTION 32. IC 36-3-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 3. (a) A legislative body shall, by ordinance or resolution, fix the annual compensation of all appointed officers, deputies, and employees under its jurisdiction. This may be done by adopting schedules of compensation. The schedules of compensation may include a provision for salaried employees whose salaries are paid on an annual basis. Salaried employees shall work a regularly scheduled work week, in accordance with the schedule of compensation.**

**(b) The city-county legislative body has jurisdiction over all appointed officers, deputies, and employees:**

**(1) of the consolidated city, except those of special service districts; or**

**(2) whose compensation is payable from the county general fund or any other fund from which the ~~county auditor~~ controller issues warrants for compensation.**

A special service district legislative body has jurisdiction over all appointed officers, deputies, and employees of the special service district.

**(c) This chapter does not affect the salaries of judges, officers of courts, prosecuting attorneys, and deputy prosecuting attorneys whose minimum salaries are fixed by statute, but the city-county legislative body may make appropriations to pay them more than the minimums fixed by statute. Beginning July 1, 1995, an appropriation made under this subsection may not exceed five thousand dollars (\$5,000) for each judge or full-time prosecuting attorney in any calendar year.**

SECTION 33. IC 36-3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.**

**(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:**

**(1) The director of each department of the consolidated city.**

**(2) Each township assessor, elected county officer, or head of a county agency.**

**(3) The county clerk, for each court ~~of which he is the clerk~~ serves.**

**(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.**

**(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate ~~he the officer~~ prepares stating that in ~~his the officer's~~ opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.**



(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers shall be submitted to the city fiscal officer, and all of the controller, except that estimates prepared by county officers relating to the circuit and superior courts in the county and the prosecuting attorney of the county shall be submitted to the county fiscal officer auditor.

(g) The city fiscal officer controller shall also prepare an itemized estimate of city expenditures for other purposes above the money proposed to be used by the city and county departments, offices, and agencies.

SECTION 34. IC 36-3-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) The consolidated city fiscal officer controller shall review and revise the estimates of city expenditures prepared submitted under section 4 of this chapter. Then he the controller shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates, along with his the controller's recommendations.

(b) The executive shall determine the amounts to be included in the proposed appropriations ordinance by the city fiscal officer controller and advise him the controller of those amounts.

SECTION 35. IC 36-3-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) Except as provided in subsection (b), the consolidated city fiscal officer and the county fiscal officer controller shall, with the assistance of the corporation counsel, prepare:

- (1) proposed appropriations ordinances for the city and county and each special service district; and
- (2) proposed ordinances fixing the rate of taxation for the taxes to be levied for all city and county departments, offices, and agencies.

The proposed appropriations ordinances must contain all the amounts necessary for the operation of consolidated government, listed in major classifications.

(b) The county auditor shall perform the duties of the controller under subsection (a) with respect to:

- (1) the circuit and superior courts in the county; and
- (2) the prosecuting attorney for the county.

(b) (c) The: fiscal officers

- (1) controller shall submit the proposed ordinances prepared under subsection (a); and
- (2) county auditor shall submit the proposed ordinances prepared under subsection (b);

along with appropriation detail accounts for each city and county department, office, and agency, to the city clerk not later than the first meeting of the city-county legislative body in August.

SECTION 36. IC 36-3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. After the passage of an appropriations ordinance, a legislative body may, on the recommendation of:

- (1) the consolidated city fiscal officer auditor, as to city matters; appropriations for:
  - (A) the circuit and superior courts in the county; or
  - (B) the prosecuting attorney of the county; or

(2) the county fiscal officer controller, as to all other city and county matters; appropriations;

make further or additional appropriations, unless their result is to increase a tax levy set by ordinance.

SECTION 37. IC 36-3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when certified to the auditor of the county: controller.

(b) Liens created when the city enters upon property to make improvements to bring it the property into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor: controller after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must state the name of the owner as it appears on the township assessor's record and a description of the property. These liens are perfected when certified to the auditor: controller.

(c) The amount of a perfected lien shall be placed on the tax duplicate by the auditor controller in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25. However, the amount of the lien is not considered a tax within the meaning of IC 6-1.1-21-2(b) and shall not be included as a part of either a total county tax levy under IC 6-1.1-21-2(g) or the tax liability of a taxpayer under IC 6-1.1-21-5 for purposes of the tax credit computations under IC 6-1.1-21-4 and IC 6-1.1-21-5.

SECTION 38. [EFFECTIVE JULY 1, 2005] The general assembly finds the following:

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county, city, and township government and an absence of unincorporated areas within its county.

(3) By virtue of its size, population, and absence of unincorporated areas, development extends to and across the boundaries of the contiguous governmental territories located within a county having a consolidated city, thus giving less meaning to boundaries of the governmental territories located within the county.

(4) By virtue of its size, population, absence of unincorporated areas, overlapping territories, and development to and across the boundaries of contiguous governmental territories, there is less need for differentiation of local governmental services within the separate governmental territories located within a county having a consolidated city, but rather the local governmental service needs are similar and more uniform within and across a county having a consolidated city.

(5) The provision of local governmental services by multiple governmental entities with overlapping territories, and by governmental entities with contiguous territories with less meaningful boundaries, results in disparate levels of local government services within a

county having a consolidated city and results in the inefficient and poor use of taxpayer dollars.

(6) As the seat of state government and a center for professional sporting events, tourism, and culture in central Indiana, the consolidated city faces unique demands for protecting governmental property and securing the safety of large numbers of residents and visitors, which require innovative approaches to public safety resources.

(7) If public safety resources are consolidated, residual services provided by townships are limited and can more effectively and uniformly be performed through consolidation at the city or county level.

(8) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through further consolidation of county, city, and township services and operations.

(9) Consolidation of county, city, and township services and operations in the consolidated city will serve the public purpose by allowing the consolidated city to:

- (A) eliminate duplicative services;
- (B) provide better coordinated and more uniform delivery of local governmental services;
- (C) provide uniform oversight and accountability for the budgets for local governmental services;
- (D) simplify the system of property taxation;
- (E) provide more unified tax rates; and
- (F) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(10) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(11) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1097 as printed April 6, 2005.)

BREAUX

Motion prevailed. The bill was ordered engrossed.

### Engrossed House Bill 1113

Senator Lawson called up Engrossed House Bill 1113 for second reading. The bill was reread a second time by title.

#### SENATE MOTION (Amendment 1113-12)

Madam President: I move that Engrossed House Bill 1113 be amended to read as follows:

Page 3, line 4, before "and" begin a new line block indented and insert:

**(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2;"**

Page 3, line 5, delete "(D)" and insert "(E)".

Page 9, line 28, delete "JUNE" and insert "JULY".

Page 15, line 14, after "judicial" insert **"following:**

**(1) The".**

Page 15, between lines 15 and 16, begin a new line block indented and insert:

**"(2) The judicial salaries fees collected under IC 33-37-5-26.**

**(3) The DNA sample processing fees collected under IC 33-37-5-26.2.**

**(4) The court administration fees collected under IC 33-37-5-27."**

Page 15, delete lines 22 through 26.

Page 15, line 27, delete "(l)" and insert "(k)".

Page 17, line 11, after "the" insert **"following:**

**(1) The".**

Page 17, between lines 11 and 12, begin a new line block indented and insert:

**"(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2)."**

Page 17, line 12, begin a new line blocked left beginning with "The".

Page 17, line 17, after "judicial" insert **"following:**

**(1) The".**

Page 17, between lines 18 and 19, begin a new line block indented and insert:

**"(2) The DNA sample processing fees collected under IC 33-37-5-26.2.**

**(3) The court administration fees collected under IC 33-37-5-27."**

Page 17, delete lines 31 through 35.

Page 17, line 39, after "million seven" insert **"nine".**

Page 17, line 39, reset in roman "hundred".

Page 17, line 39, delete "thirty-nine" and insert **"thirty-two".**

Page 17, line 40, strike fifty-seven" and insert **"nine".**

Page 17, line 40, delete "(\$7,039,257)" and insert **"(\$7,932,209)".**

Page 18, delete lines 2 through 33, begin a new line block indented and insert:

**"(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to ~~eleven nine~~ and ~~eight-hundredths thirty-seven hundredths~~ percent (~~11.08~~); (9.37%);**

**(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~twenty-five thirty-two~~ and ~~twenty-one fifty-three~~ hundredths percent (~~25.21~~); (32.53%);**

**(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to ~~three two and fifty-two ninety-eight~~ hundredths percent (~~3.52~~); (2.98%);**

**(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~fourteen twelve and nineteen-hundredths~~ percent (~~14.19~~); (12%);**

**(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~sixteen thirteen~~ and ~~fifty-hundredths ninety-five hundredths~~ percent (~~16.50~~); (13.95%);**

(6) the motor vehicle highway account an amount equal to ~~twenty-six~~ **twenty-two** and ~~ninety-five~~ **seventy-eight** hundredths percent (~~26.95%~~); **(22.78%)**;

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~thirty-two~~ **twenty-eight** hundredths of one percent (~~0.32%~~); **(0.28%)**; and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to ~~two one~~ and ~~twenty-three~~ **eighty-nine** hundredths percent (~~2.23%~~); **(1.89%)**; and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to four and twenty-two hundredths percent **(4.22%)**;

Page 18, line 40, after "million" strike "two" and insert "seven".

Page 18, line 41, strike "\$2,200,000)." and insert **"(\$2,700,000)."**

(Reference is to EHB 1113 as reprinted April 7, 2005.)

LAWSON

Motion prevailed. The bill was ordered engrossed.

#### Engrossed House Bill 1137

Senator Ford called up Engrossed House Bill 1137 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1137-3)

Madam President: I move that Engrossed House Bill 1137 be amended to read as follows:

Page 8, delete lines 20 through 23, begin a new paragraph and insert:

**"Sec. 4. The chief information officer, in conjunction with:**

**(1) the state librarian or the state librarian's designee;**

**(2) the director of the state commission on public records or the director's designee; and**

**(3) a representative from each of the two (2) state agencies that generate the most revenue under this section;**

**shall establish reasonable fees for enhanced access to public records and other electronic records, so that the revenues generated are sufficient to develop, maintain, operate, and expand services that make public records available electronically. A meeting to establish or revise the fees described in this section is subject to the requirements of IC 5-14-1.5."**

Page 8, line 34, delete "to the".

Page 8, delete line 35.

Page 9, delete lines 36 through 40, begin a new paragraph and insert:

**"(c) If an entity subject to the requirements of this section cannot readily comply with the information technology accessibility standards without undue burden, the entity shall submit a plan to the office with a proposed time for later compliance with the standards. A plan submitted under this**

**subsection must provide alternative means for accessibility during the period of noncompliance."**

Page 17, between lines 41 and 42, begin a new paragraph and insert:

**"SECTION 19. IC 5-21-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The governor shall appoint an executive director of the commission to serve at the pleasure of the governor.**

**(b) The ~~commission~~ governor shall set the executive director's compensation with the approval of the state budget agency.**

**SECTION 20. IC 5-21-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The executive director and the ~~commission's other staff~~ shall: ~~carry out this article in conformity with the policies and directives of the commission:~~**

**(1) work with the office of technology established by IC 4-13.1-2-1 to ensure that there is no disruption in any service provided by the commission as of July 1, 2005;**

**(2) only carry on business conducted by the commission as of July 1, 2005, including the following:**

**(A) Collect the commission's assets.**

**(B) Dispose of the commission's properties.**

**(C) Discharge or make provision for discharge of the commission's liabilities.**

**(D) Take any other action necessary to wind up and liquidate the commission's affairs in accordance with law;**

**(3) report to the governor when the commission is wound up; and**

**(4) return any remaining funds to the state general fund."**

Page 19, between lines 10 and 11, begin a new paragraph and insert:

**"SECTION 25. IC 6-1.1-4-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) Each township assessor shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township assessor's records shall at all times show the assessed value of real property in accordance with the provisions of this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.**

**(b) The township assessor in a county having a consolidated city, or the county assessor in every other county, shall:**

**(1) maintain an electronic data file of:**

**(A) the parcel characteristics and parcel assessments of all parcels; and**

**(B) the personal property return characteristics and assessments by return;**

**for each township in the county as of each assessment date;**

**(2) maintain the ~~electronic~~ file in ~~the~~ a form that formats the information in the file with the standard data, field, and record coding required and approved by:**

**(A) the legislative services agency; and**

**(B) the department of local government finance; and**

**(3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:**

**(A) the legislative services agency; and**

**(B) the department of local government finance;**

in a manner that meets the data export and transmission requirements in a standard format, as prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and  
 (4) resubmit the data in the form and manner required under this subsection, upon request of the legislative services agency or the department of local government finance, if data previously submitted under this subsection does not comply with the requirements of this subsection, as determined by the legislative services agency or the department of local government finance.

An electronic data file maintained for a particular assessment date may not be overwritten with data for a subsequent assessment date until a copy of an electronic data file that preserves the data for the particular assessment date is archived in the manner prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency."

Page 19, line 40, delete "4-13.1-2-1." and insert "**4-13.1-2-1 and approved by the legislative services agency.**".

Page 19, line 42, delete "." and insert "**of local government finance and the legislative services agency.**".

Page 26, line 41, delete "the".

Page 32, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 41. IC 36-2-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. The county auditor shall:

(1) maintain an electronic data file of the information contained on the tax duplicate for all:

(A) parcels; and

(B) personal property returns;

for each township in the county as of each assessment date;

(2) maintain the **electronic data** file in ~~the~~ a form that **formats the information in the file with the standard data, field, and record coding required and approved by:**

(A) the legislative services agency; and

(B) the department of local government finance; ~~and~~

(3) transmit the data in the file with respect to the assessment date of each year before March 1 of the next year to:

(A) the legislative services agency in an electronic format under IC 5-14-6; and

(B) the department of local government finance;

**in a manner that meets the data export and transmission requirements in a standard format, as prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and  
 (4) resubmit the data in the form and manner required under this subsection, upon request of the legislative services agency or the department of local government finance, if data previously submitted under this subsection does not comply with the requirements of this subsection, as determined by the legislative services agency or the department of local government finance.**

An electronic data file maintained for a particular assessment date may not be overwritten with data for a subsequent assessment date until a copy of an electronic data file that preserves the data for the particular assessment date is

archived in the manner prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency."

Page 32, line 35, after "IC 4-23-16;" insert "IC 5-21-1-1.5; IC 5-21-1-2; IC 5-21-1-3.5; IC 5-21-1-4.5; IC 5-21-1-5; IC 5-21-1-6; IC 5-21-1-6.5; IC 5-21-1-7; IC 5-21-2-2; IC 5-21-2-2.1; IC 5-21-2-3; IC 5-21-2-4; IC 5-21-2-5; IC 5-21-2-7; IC 5-21-2-10; IC 5-21-2-11; IC 5-21-2-12; IC 5-21-2-13; IC 5-21-2-14; IC 5-21-2-15; IC 5-21-3; IC 5-21-4; IC 5-21-5;".

Page 33, delete lines 26 through 30.

Page 33, line 31, delete "(f)" and insert "(e)".

Page 33, line 38, delete "(g)" and insert "(f)".

Page 34, line 26, delete "IC 40-13.1-2-1," and insert "**IC 4-13.1-2-1,**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1137 as printed with Digest Correction April 6, 2005.)

FORD

Motion prevailed. The bill was ordered engrossed.

#### Engrossed House Bill 1165

Senator Long called up Engrossed House Bill 1165 for second reading. The bill was read a second time by title.

#### SENATE MOTION

(Amendment 1165-2)

Madam President: I move that Engrossed House Bill 1165 be amended to read as follows:

Page 2, line 7, after "(4)" insert "**for purpose of annual or biennial reports,**".

(Reference is to EHB 1165 as printed April 1, 2005.)

BRAY

Motion prevailed. The bill was ordered engrossed.

#### Engrossed House Bill 1179

Senator Paul called up Engrossed House Bill 1179 for second reading. The bill was read a second time by title.

#### SENATE MOTION

(Amendment 1179-2)

Madam President: I move that Engrossed House Bill 1179 be amended to read as follows:

Page 30, after line 42, begin a new line block indented and insert:

**"(3) The likelihood the board of directors will be able to establish a quorum for the transaction of business."**

Page 31, line 1, delete "(3)" and insert "**(4)**".

(Reference is to EHB 1179 as printed April 6, 2005.)

CLARK

Motion prevailed. The bill was ordered engrossed.

#### Engrossed House Bill 1182

Senator Dillon called up Engrossed House Bill 1182 for second reading. The bill was read a second time by title. There being no

amendments, the bill was ordered engrossed.

### Engrossed House Bill 1250

Senator Weatherwax called up Engrossed House Bill 1250 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1250-1)

Madam President: I move that Engrossed House Bill 1250 be amended to read as follows:

Page 5, delete lines 20 through 34.

Page 6, delete lines 41 through 42.

Page 7, delete lines 1 through 10.

Page 8, delete lines 6 through 36, begin a new paragraph and insert:

"SECTION 10. IC 36-7-14.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The authority is organized for the following purposes:

- (1) Financing, constructing, and leasing local public improvements to the commission.
- (2) Financing and constructing additional improvements to local public improvements owned by the authority and leasing them to the commission.
- (3) Acquiring all or a portion of one (1) or more local public improvements from the commission by purchase or lease and leasing these local public improvements back to the commission, with any additional improvements that may be made to them.
- (4) Acquiring all or a portion of one (1) or more local public improvements from the commission by purchase or lease to fund or refund indebtedness incurred on account of those local public improvements to enable the commission to make a savings in debt services obligations or lease rental obligations or to obtain relief from covenants that the commission considers to be unduly burdensome.

~~(b) (5) In a county described in section 12.5(a) of this chapter having a United States government military base that is scheduled for closing or is completely or partially inactive or closed and if specified in the ordinance creating the authority or in another ordinance adopted by the legislative executive body of the unit, an authority may be organized for the purpose of performing any of the uses or functions identified in IC 36-7-14-2, IC 36-7-14-2.5, or IC 36-7-14-41 for exercise any of the powers of a redevelopment commission established under IC 36-7-14, including the establishment, in accordance with IC 36-7-14, of one (1) or more economic development areas in the county in addition to an economic development area established under section 12.5 of this chapter. However, an economic development area that includes any part of a military base described in section 12.5(a) of this chapter is subject to the requirements of section 12.5 of this chapter. An action taken by an authority under this subdivision shall be treated as if the action were taken under the law granting the power to the redevelopment commission."~~

Page 9, line 1, delete "legislative" and insert "executive".

Page 9, line 1, delete "provide that the same entity" and insert "adopt an ordinance to elect to allow the authority for the

county to exercise the powers described in section 11(5) of this chapter. An ordinance adopted under this section may also do any of the following:

(1) Establish or change the:

(A) number of members on the board of the authority; or

(B) name of the authority;

that would otherwise apply under this chapter.

(2) Provide for any other matter that is necessary or appropriate to carry out the powers described in section 11(5) or 12.5 of this chapter.

**The county executive may amend or rescind an ordinance adopted under this section if the rights of holders of bonded indebtedness, leases, or other obligations (as defined under 5-1-3-1) of the authority are not adversely affected."**

Page 9, delete lines 2 through 5.

Page 9, strike lines 18 through 20.

Page 9, line 21, strike "IC 36-7-14."

Page 9, line 21, after "The area" insert "established under this section".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1250 as printed April 6, 2005.)

WEATHERWAX

Motion prevailed. The bill was ordered engrossed.

### Engrossed House Bill 1525

Senator M. Young called up Engrossed House Bill 1525 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### Engrossed House Bill 1646

Senator M. Young called up Engrossed House Bill 1646 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1646-3)

Madam President: I move that Engrossed House Bill 1646 be amended to read as follows:

Page 1, between lines 10 and 11, begin a new line block indented and insert:

**"(6) Any party with a cause of action under IC 23-2-1-19."**

Page 1, line 12, delete "solely".

Page 2, line 8, after "not" delete "," and insert "at the time of the offer or sale, and".

(Reference is to EHB 1646 as printed March 30, 2005.)

M. YOUNG

Motion prevailed.

#### SENATE MOTION (Amendment 1646-4)

Madam President: I move that Engrossed House Bill 1646 be amended to read as follows:

Page 3, line 36, delete "a governmental entity or".

Page 3, line 37, delete "." and insert ", but in no event shall an action be commenced more than five (5) years after the purchase or sale of a viatical settlement contract or fractional

or pooled interest in a viatical settlement contract that occurred before March 17, 2000. This section does not affect a remedy to an individual bringing action under IC 34 or IC 27."

(Reference is to EHB 1646 as printed March 30, 2005.)

STEELE

Motion prevailed. The bill was ordered engrossed.

#### Engrossed House Bill 1736

Senator Clark called up Engrossed House Bill 1736 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1736-2)

Madam President: I move that Engrossed House Bill 1736 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Page 8, delete lines 5 through 6.

(Reference is to EHB 1736 as printed April 1, 2005.)

BRAY

Motion prevailed.

#### SENATE MOTION (Amendment 1736-5)

Madam President: I move that Engrossed House Bill 1736 be amended to read as follows:

Page 2, line 16, delete "two" and insert "**one**".

Page 2, line 17, delete "(\$200)" and insert "**(\$100)**".

Page 3, line 1, delete "sixteen (16)" and insert "**twelve (12)**".

Page 3, line 29, delete "sixteen (16)" and insert "**twelve (12)**".

Page 4, line 13, delete "eight (8)" and insert "**six (6)**".

Page 4, delete lines 32 through 33.

Page 4, line 34, delete "(2)" and insert "**(1)**".

Page 4, line 36, delete "(3)" and insert "**(2)**".

Page 4, line 36, after "shall" insert "**annually**".

Page 4, line 36, delete "an annual fee of" and insert "**a reasonable fee, as determined by the commissioner**".

Page 4, line 36, delete "of five".

Page 4, line 37, delete "hundred dollars (\$500)".

Page 4, line 38, delete "(4)" and insert "**(3)**".

Page 4, line 42, delete "(a)(3)" and insert "**(a)(2)**".

Page 6, line 17, after "(a)," insert "**not later than sixty (60) days after the appointment**".

Page 6, line 20, delete "that the appointee does not owe" and insert "":

**(A) whether the appointee owes**."

Page 6, line 22, delete "." and insert ";

**(B) to whom the appointee owes a premium;**

**(C) the amount of the premium owed; and**

**(D) whether there is a dispute concerning the premium.**"

Page 6, line 26, delete "." and insert "**in the six (6) years immediately preceding the appointee's appointment under subsection (a)**".

Page 6, line 27, delete "ten (10)" and insert "**one hundred**

**eighty (80)**".

Page 6, line 30, delete "notice:" and insert "**petition with the commissioner stating that the appointee still owes a premium to the insurer or agent in violation of IC 27-10-4-7 and requesting relief. At the same time that the insurer or agent files the petition with the commissioner, the insurer or agent shall mail a copy of the petition to the appointee by certified mail. The appointee may file a response with the commissioner not later than ten (10) days after the appointee receives the petition.**

**(e) Upon receipt of the petition and response, if filed, under subsection (d), the commissioner may conduct an investigation and institute proceedings in accordance with section 9 of this chapter.**

**(f) The remedies provided in this section are not the exclusive remedies available to an insurer or agent. The election of an insurer or agent to seek a remedy under this section does not preclude the insurer or agent from seeking other remedies available at law or in equity, and is not a prerequisite for an insurer or agent to seek other remedies available at law or in equity.**"

Page 6, delete lines 31 through 42.

Page 7, delete lines 1 through 17.

Page 7, line 18, delete "(i)" and insert "**(g)**".

Page 7, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 10. IC 27-10-4-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) Notwithstanding any other law, not later than thirty (30) days after the termination of a surety bail agent's appointment, the surety bail agent shall pay to the former insurer or agent of the insurer to whom the surety bail agent reported on behalf of the former insurer any premium owed.**

**(b) The commissioner may enforce this section in accordance with IC 27-10-3-9.**"

Renumber all SECTIONS consecutively.

(Reference is to EHB 1736 as printed April 1, 2005.)

CLARK

Motion prevailed. The bill was ordered engrossed.

#### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 397:

Conferees: Landske, Chair and Lanane

GARTON

Date: 4/8/05

Time: 4:47 p.m.

#### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the

following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 66:

Conferees: Dillon, Chair and Rogers

GARTON  
Date: 4/8/05  
Time: 4:45 p.m.

## REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 279:

Conferees: Gard, Chair and Hume

Advisors: Mishler and Antich-Carr

GARTON  
Date: 4/8/05  
Time: 4:49 p.m.

## REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 459:

Conferees: Dillon, Chair and Simpson

Advisors: Kenley and Hume

GARTON  
Date: 4/5/05  
Time: 4:44 p.m.

## REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 564:

Conferees: Clark, Chair and Broden

Advisors: Kruse and Mrvan

GARTON  
Date: 4/8/05  
Time: 4:42 p.m.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 200 because it conflicts with HEA 1288-2005 without properly recognizing the existence of HEA 1288-2005, has had Engrossed Senate Bill 200 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 200 be corrected as follows:

Page 9, line 4, delete "tenth" and insert "**twenty-fifth**".  
(Reference is to ESB 200 as reprinted April 6, 2005.)

GARTON, Chair  
R. YOUNG, R.M.M.  
LUBBERS

Report adopted.

### COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 372 because it conflicts with HEA 1288-2005 without properly recognizing the existence of HEA 1288-2005, has had Engrossed Senate Bill 372 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 372 be corrected as follows:

Page 3, after line 41, begin a new paragraph and insert:

"SECTION 3. IC 20-26-11-5, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The parents of any student, regardless of the student's age, or the student after the student has become eighteen (18) years of age may request a transfer from a school corporation in which the student has a legal settlement to a transferee school corporation in Indiana or another state if the student may be better accommodated in the public schools of the transferee corporation. Whether the student can be better accommodated depends on such matters as:

- (1) crowded conditions of the transferee or transferor corporation; and
- (2) curriculum offerings at the high school level that are important to the vocational or academic aspirations of the student.

(b) The request for transfer must be made in writing to the transferor corporation, which shall immediately mail a copy to the transferee corporation. The request for transfer must be made at the times provided under rules adopted by the state board. The transfer is effected if both the transferee and the transferor corporations approve the transfer not more than thirty (30) days after that mailing. **If the transferor school corporation fails to act on the transfer request within thirty (30) days after the request is received, the transfer is considered approved.** The transfer is denied when either school corporation:

- (1) mails a written denial by certified mail to the requesting parents or student at their last known address. ~~or~~
- (2) ~~fails to act on the request not more than thirty (30) days after the mailing.~~

(c) If a request for transfer is denied **under subsection (b)**, an appeal may be taken to the state board by the requesting parents or student, if commenced not more than ten (10) days after the denial. An appeal is commenced by mailing a notice of appeal by certified mail to the superintendent of each school corporation and the state board. The state superintendent shall develop forms for this purpose, and the transferor corporation shall assist the parents or student in the mechanics of commencing the appeal. An appeal hearing must comply with section 15 of this chapter.

SECTION 4. IC 20-26-11-8, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) A student who is placed

in a state licensed private or public health care facility, child care facility, or foster family home:

- (1) by or with the consent of the division of family and children;
- (2) by a court order; or
- (3) by a child placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

- (1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
- (2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as disabled under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(c)(5).

(c) A student who is placed in:

- (1) an institution operated by the division of disability, aging, and rehabilitative services or the division of mental health and addiction; or
- (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability, aging, and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

(d) A student:

- (1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); and
- (2) for whom there is no other entity or person required to pay transfer tuition; may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation

**and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support."**

(Reference is to ESB 372 as printed March 29, 2005.)

GARTON, Chair  
R. YOUNG, R.M.M.  
KENLEY

Report adopted.

## MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 218 and that a conference committee be appointed to confer with a like committee of the House.

NUGENT

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Joint Resolution 10 and that a conference committee be appointed to confer with a like committee of the House.

LAWSON

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Motion to Concur on Engrossed Senate Bill 481, filed April 1, 2005, be withdrawn from further consideration by the Senate.

LAWSON

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Motion to Concur on Engrossed Senate Bill 233, filed April 6, 2005, be withdrawn from further consideration by the Senate.

DROZDA

Motion prevailed.

## MESSAGE FROM THE PRESIDENT OF THE SENATE

Members of the Senate: I have on the 8th day of April, 2005, signed Senate Enrolled Acts: 43, 60, 88, 111, 172, 175, 212, 303, 315, and 513.

REBECCA S. SKILLMAN  
Lieutenant Governor



April 8, 2005

Senate 999

**MOTIONS TO DISSENT  
FROM HOUSE AMENDMENTS**

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 233 and that a conference committee be appointed to confer with a like committee of the House.

DROZDA

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 481 and that a conference committee be appointed to confer with a like committee of the House.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, April 11, 2005.

GARTON

Motion prevailed.

The Senate adjourned at 6:00 p.m.

MARY C. MENDEL  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate